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2 UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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4 FERNANDO HERNANDEZ, KENNETH CHOW,  
BRYANT WHITE, DAVID WILLIAMS, MARQUIS ACKLIN,  
5 CECILIA JACKSON, TERESA JACKSON,  
MICHAEL LATTIMORE, and JUANY GUZMAN, Each  
Individually, And On Behalf Of All Other  
6 Persons Similarly Situated,

7

Plaintiffs,

8

-against-

Index No:

12 CV 4339 (ALC) (JLC)

9

10 THE FRESH DIET, INC., LATE NIGHT EXPRESS  
COURIER SERVICES, INC. (FL), FRESH DIET EXPRESS  
CORP. (NY), THE FRESH DIET - NY INC. (NY),  
11 FRESH DIET GRAB & GO, INC. (FL) a/k/a  
YS CATERING HOLDINGS, INC. (FL) d/b/a  
12 YS CATERING, INC. (FL), FRESH DIET EXPRESS  
CORP. (FL), SYED HUSSAIN, Individually,  
13 JUDAH SCHLOSS, Individually, and ZAIMI DUCHMAN,  
Individually,

14

Defendants.

15

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16

17

EXAMINATION BEFORE TRIAL of

18

the Plaintiff, TERESA JACKSON, taken by the

19

Defendant, pursuant to Notice, held at the

20

offices of Kaufman, Dolowich, Voluck &amp; Gonzo

21

LLP, 100 William Street, Suite 215, New York,

22

New York 10038, on October 2, 2013, at

23

1:48 p.m., before a Notary Public of the State

24

of New York.

25

[Page 2]

1  
2 APPEARANCES:  
3  
4 THE HARMAN FIRM, PC  
5 Attorney for Plaintiffs  
6 200 West 57th Street, Suite 900  
7 New York, New York 10019  
8  
9 BY: PETER J. ANDREWS, ESQ.  
10  
11 KAUFMAN, DOLOWICH, VOLUCK & GONZO LLP  
12 Attorneys for Defendants  
13 100 William Street, Suite 215  
14 New York, New York 10038  
15  
16 BY: YALE POLLACK, ESQ.  
17  
18 FILE #: 055611-0002  
19  
20  
21  
22  
23  
24  
25

[Page 3]

1 STIPULATIONS  
2  
3 IT IS HEREBY STIPULATED AND AGREED by and  
4 between the attorneys for the respective parties  
5 herein, that filing, sealing and certification,  
6 and the same are, hereby waived.  
7  
8 IT IS FURTHER STIPULATED AND AGREED that  
9 all objections except as to the form of the  
10 question, shall be reserved to the time of the  
11 trial.  
12  
13 IT IS FURTHER STIPULATED AND AGREED that  
14 the within deposition may be signed and sworn to  
15 by an officer authorized to administer an oath,  
16 with the same force and effect as if signed and  
17 sworn to before the Court.  
18  
19  
20  
21  
22  
23  
24  
25

[Page 4]

1  
2 TERESA JACKSON, the witness  
3 herein, having been first duly sworn by a  
4 Notary Public of the State of New York, was  
5 examined and testified as follows:  
6 EXAMINATION BY  
7 MR. POLLACK:  
8 Q. State your name for the record, please.  
9 A. Teresa Jackson.  
10 Q. State your address for the record,  
11 please.  
12 A. 21 Dickerman Street, Apartment 3, New  
13 Haven, Connecticut 06511.  
14 Q. Good afternoon, Ms. Jackson.  
15 A. Hello. How are you?  
16 Q. You were here for the deposition --  
17 A. Yes.  
18 Q. -- of your nephew, Marquis, right?  
19 A. Yes.  
20 Q. It's going to be a similar line of  
21 questioning. I'm going to be asking you a  
22 series of questions regarding your claims in  
23 this action.  
24 A. Okay.  
25 Q. If you don't understand any question

[Page 5]

1 T. Jackson  
2 that I ask, please just let me know.  
3 A. Okay.  
4 Q. I'll try to rephrase it until you  
5 understand the question.  
6 A. Okay. No problem.  
7 MR. ANDREWS: Teresa, just wait  
8 until Yale finishes the question, and  
9 then answer the question.  
10 THE WITNESS: Okay.  
11 Q. Please just wait for me to finish the  
12 question before answering because the court  
13 reporter can't take us both speaking at the  
14 same time, and please just make sure to answer  
15 any question verbally so that the court  
16 reporter can take down the answer. She can't  
17 take down hand gestures or nods.  
18 Do you understand those instructions?  
19 A. Yes, I did.  
20 MR. ANDREWS: Keep your voice up  
21 too.  
22 THE WITNESS: Okay.  
23 Q. Are you taking any medications today?  
24 A. I have blood pressure pills. I'm on  
25 blood pressure pills and sugar.

[2] (Pages 2 to 5)

[Page 6]

1 T. Jackson  
 2 Q. Do you think that those medications will  
 3 have --  
 4 A. No.  
 5 Q. -- any impact --  
 6 MR. ANDREWS: Again, that's an  
 7 example. You have to let him finish.  
 8 Wait, pause, answer.  
 9 Q. -- on your ability to truthfully respond  
 10 to my questions today?  
 11 Do you think that those medications  
 12 would have any impact on your ability to  
 13 truthfully respond to my questions today?  
 14 A. No.  
 15 Q. Are you under the influence of drugs or  
 16 alcohol right now?  
 17 A. No.  
 18 Q. Anything else that may impair your  
 19 ability to truthfully respond to my questions  
 20 today?  
 21 A. No.  
 22 Q. Did you review any documents in  
 23 preparation for today's deposition?  
 24 A. Yes.  
 25 Q. What did you review?

[Page 7]

1 T. Jackson  
 2 A. Did I review today or prior to today?  
 3 Q. Prior to today.  
 4 A. Yes.  
 5 Q. What did you review?  
 6 A. My affidavit.  
 7 Q. Anything else?  
 8 A. That's it.  
 9 Q. Did you speak to anyone in preparation  
 10 for today's deposition?  
 11 A. Just my lawyer.  
 12 Q. You didn't speak to Fernando Hernandez?  
 13 A. No.  
 14 Q. Are you currently employed?  
 15 A. Yes, I am.  
 16 Q. Where are you employed?  
 17 A. PCF.  
 18 Q. What do you do for PCF?  
 19 A. Deliver newspaper.  
 20 Q. How long have you been delivering  
 21 newspapers for PCF?  
 22 A. It's been a couple of months. I don't  
 23 have an exact date.  
 24 Q. Do you know what month?  
 25 A. Maybe about March.

[Page 8]

1 T. Jackson  
 2 Q. 2013?  
 3 A. Yes.  
 4 Q. How are you paid by PCF?  
 5 A. Check.  
 6 Q. Do you receive an hourly wage?  
 7 A. No.  
 8 Q. How is your compensation derived?  
 9 A. By papers, newspapers.  
 10 Q. "By papers," do you mean the number of  
 11 papers delivered?  
 12 A. Yes.  
 13 MR. ANDREWS: Again, keep your  
 14 voice up so she can hear you and take  
 15 everything down.  
 16 Q. Do you know if you're considered an  
 17 independent contractor by PCF?  
 18 MR. ANDREWS: Objection.  
 19 Q. You can answer.  
 20 MR. ANDREWS: You can answer.  
 21 That's for the record.  
 22 Q. Unless he tells you otherwise, you can  
 23 answer my question.  
 24 MR. ANDREWS: That's for the  
 25 record.

[Page 9]

1 T. Jackson  
 2 A. Yes.  
 3 Q. Did you sign any type of agreement, an  
 4 independent contractor agreement, with PCF?  
 5 MR. ANDREWS: Objection.  
 6 A. Yes.  
 7 MR. POLLACK: I'm going to ask  
 8 for a copy of the independent contractor  
 9 agreement.  
 10 A. I don't have it.  
 11 Q. What days do you work for PCF, what days  
 12 of the week?  
 13 A. Every day.  
 14 Q. What are your hours?  
 15 A. Between 2:00 and 6:00 Monday through  
 16 Friday, and 2:00 to 8:00 Saturdays and Sundays.  
 17 Q. We're talking p.m., right, 2:00 in the  
 18 afternoon to --  
 19 A. Morning.  
 20 Q. Okay. 2:00 in the morning to 6:00 a.m.  
 21 2:00 a.m. to 8:00 p.m. on Saturdays and  
 22 Sundays?  
 23 A. Yes.  
 24 MR. ANDREWS: Did you say p.m.?  
 25 MR. POLLACK: A.m.

[3] (Pages 6 to 9)

[Page 10]

1 T. Jackson  
 2 MR. ANDREWS: A.m., okay.  
 3 Q. Where is PCF located?  
 4 A. In Connecticut.  
 5 Q. What city?  
 6 A. Hamden.  
 7 Q. Do you know how much you're paid per  
 8 newspaper?  
 9 A. I think it's between \$0.12 and \$0.15 a  
 10 paper, per paper.  
 11 Q. Does it vary?  
 12 A. By the paper that you're delivering.  
 13 Q. What papers do you deliver?  
 14 A. New Haven Registers, Connecticut Post,  
 15 New York Post, Daily News, New York Times,  
 16 Barron, a few others.  
 17 Q. Certain papers delivered may warrant  
 18 \$0.15 while others may warrant \$0.12 per  
 19 delivery?  
 20 MR. ANDREWS: Objection.  
 21 A. Between that, that range.  
 22 MR. ANDREWS: Objection.  
 23 Q. Do you know how many papers you deliver  
 24 between Monday and Friday on one given day?  
 25 A. Between 190 to maybe 250.

[Page 11]

1 T. Jackson  
 2 Q. That's Mondays through Fridays?  
 3 A. Pretty much, yes.  
 4 Q. What about on Saturdays and Sundays?  
 5 A. It's about 250, 240. Actually, it's  
 6 more because I do residential and commercial.  
 7 Sorry.  
 8 Q. It's more when?  
 9 A. It's more -- it's more papers. I forgot  
 10 about my commercial. That's residential.  
 11 Q. How many commercial do you deliver for  
 12 Monday through Friday?  
 13 A. Commercial, it's about 200.  
 14 Q. What about Saturday and Sunday?  
 15 A. Saturday/Sunday, it's about 500.  
 16 Q. Do you receive a different rate for the  
 17 commercial paper deliveries?  
 18 A. Yes, you do.  
 19 Q. What's that?  
 20 A. You get paid by bulk.  
 21 Q. Is that pounds?  
 22 A. No. Bulk is the amount of paper you're  
 23 delivering to each door.  
 24 Q. Can you give me an example of what the  
 25 pay structure is?

[Page 12]

1 T. Jackson  
 2 A. It's like if I deliver forty and below,  
 3 it might be \$0.30. Forty and sixty, it'll be  
 4 maybe \$0.40, somewhere like that. The more you  
 5 deliver, the more the pay rate goes.  
 6 Q. The higher the pay rate is?  
 7 A. Yeah.  
 8 Q. Before March 2013, were you employed?  
 9 A. Before March 2013, yes.  
 10 Q. By who?  
 11 A. By Eli's.  
 12 Q. Can you spell that?  
 13 A. E-L-I.  
 14 Q. What is that?  
 15 A. It's a -- sort of like a pizzeria.  
 16 Q. What'd you do there?  
 17 A. Deliveries.  
 18 Q. Where is Eli's located?  
 19 A. Hamden, Connecticut.  
 20 Q. How far is Hamden from your residence?  
 21 A. It's about ten, fifteen minutes.  
 22 Q. Drive?  
 23 A. Yeah.  
 24 Q. How long did you work for Eli's?  
 25 A. It was only a couple of months.

[Page 13]

1 T. Jackson  
 2 Q. All in 2013 or also in 2012?  
 3 A. I would say end of -- maybe end of 2012  
 4 to beginning of 2013.  
 5 Q. Was there any gap in employment between  
 6 Eli's and PCF?  
 7 A. No.  
 8 Q. You ended Eli's around February 2013?  
 9 A. I can't give you a specific date. I  
 10 don't remember that.  
 11 MR. ANDREWS: Try to keep your  
 12 voice up.  
 13 THE WITNESS: Okay.  
 14 MR. ANDREWS: You're soft  
 15 spoken. Try to keep your voice up.  
 16 THE WITNESS: Okay.  
 17 Q. How were you paid by Eli's?  
 18 A. That was an hourly rate and also  
 19 mileage.  
 20 Q. Do you know the hours that you worked at  
 21 Eli's?  
 22 A. That depends if I delivered breakfast,  
 23 if I delivered lunch, if I delivered dinner.  
 24 Q. Did you work anywhere between Late Night  
 25 and Eli's?

[4] (Pages 10 to 13)

[Page 14]

1 T. Jackson  
 2 MR. ANDREWS: Objection.  
 3 A. No. Oh, I did do a flower delivery. I  
 4 don't remember the dates for that.  
 5 Q. Do you remember the name of the --  
 6 A. It was Bloom's.  
 7 Q. Bloom's?  
 8 A. Bloom's Flower.  
 9 Q. B-L-O-O-M-S?  
 10 A. B-L -- yes.  
 11 Q. Where is that located?  
 12 A. That's in North -- North Haven,  
 13 Connecticut.  
 14 Q. How were you paid by Bloom's?  
 15 A. Hourly, \$9 an hour plus, mileage.  
 16 Q. Do you remember what your wage rate was  
 17 at Eli's?  
 18 A. My wage? I think it was -- I think it  
 19 was eleven.  
 20 Q. Do you remember what your reimbursement  
 21 for mileage was at Eli's?  
 22 MR. ANDREWS: Objection.  
 23 A. About \$0.35 maybe.  
 24 Q. What about at Bloom's?  
 25 A. Bloom's -- I don't remember Bloom's.

[Page 15]

1 T. Jackson  
 2 Q. Can you just briefly describe your  
 3 educational background?  
 4 A. I graduated from twelfth grade.  
 5 Q. From where?  
 6 A. Twelfth grade, high school.  
 7 Q. High school?  
 8 A. Uh-huh.  
 9 Q. What year?  
 10 A. 2000 -- I'm sorry. '87, 1987.  
 11 Q. What high school was that?  
 12 A. Lincoln High School.  
 13 Q. Where is that located?  
 14 A. Yonkers, New York.  
 15 Q. Are you currently married?  
 16 A. Yes, I am.  
 17 Q. What's your husband's name?  
 18 A. Delroy McNeil.  
 19 Q. How long have you been married to your  
 20 husband?  
 21 A. It's now five years.  
 22 Q. Any prior marriages?  
 23 A. Yes.  
 24 Q. To whom?  
 25 A. Scott Fields.

[Page 16]

1 T. Jackson  
 2 Q. Fields?  
 3 A. Fields, yes.  
 4 Q. When were you married to Scott Fields?  
 5 A. I don't remember the year. I was  
 6 twenty-six. I can't do the math right now.  
 7 Q. How long were you married to Scott  
 8 Fields?  
 9 A. Eight years.  
 10 Q. Do you have any children?  
 11 A. Yes, I do.  
 12 Q. How many children?  
 13 A. One.  
 14 Q. Boy or girl?  
 15 A. Girl.  
 16 Q. What is her name?  
 17 A. Ashley Owens.  
 18 Q. Is she a child from Scott Fields?  
 19 A. No.  
 20 Q. From Delroy McNeil?  
 21 A. No.  
 22 Q. Do you know her father's name?  
 23 A. Yes, James Owens.  
 24 Q. What is her date of birth?  
 25 A. Her date of birth is 3/15/88.

[Page 17]

1 T. Jackson  
 2 Q. Does she currently reside with you?  
 3 A. Yes, she does.  
 4 Q. Does anyone else reside with you besides  
 5 your daughter?  
 6 A. My nephew.  
 7 Q. Is that Mr. Acklin?  
 8 A. Yes.  
 9 Q. Mr. Acklin's your nephew?  
 10 A. Yes.  
 11 Q. Do you have any relationship to  
 12 Cecilia Jackson?  
 13 A. That is my sister.  
 14 Q. Have you ever been deposed before?  
 15 A. No.  
 16 Q. Have you ever been involved in a lawsuit  
 17 before?  
 18 A. No.  
 19 Q. Now I'm going to show you a document  
 20 that's been previously marked for  
 21 identification as Defendant's Exhibit 13 on  
 22 September 20, 2013, and I'm going to ask if  
 23 you've ever seen that document before today  
 24 (handing).  
 25 A. This one, no.

[5] (Pages 14 to 17)

[Page 18]

1 T. Jackson  
 2 (Whereupon, Notice of EBT was  
 3 marked as Defendant's Exhibit 48, for  
 4 identification, as of this date.)  
 5 Q. Just looking back at Defendant's 13,  
 6 when you say that you haven't seen "this one",  
 7 have you seen another version of this document?  
 8 MR. ANDREWS: Objection.  
 9 A. Another version of this one?  
 10 Q. Yes.  
 11 A. No.  
 12 Q. Do you see your name in the caption of  
 13 this document?  
 14 A. This one, yes.  
 15 Q. Do you understand that you're a  
 16 plaintiff --  
 17 A. Yes, I am.  
 18 Q. -- in an action?  
 19 Do you understand what your claims are  
 20 in this action?  
 21 A. Yes, I do.  
 22 Q. What do you understand your claims to  
 23 be?  
 24 A. My wages.  
 25 Q. What do you mean by that?

[Page 19]

1 T. Jackson  
 2 A. This is pertaining to our wages that we  
 3 weren't paid for overtime.  
 4 Q. Now I'm showing you a document that's  
 5 been marked for identification as Defendant's  
 6 Exhibit 48 (handing).  
 7 I'm going to ask if you've seen that  
 8 document before today.  
 9 A. No, not this one.  
 10 Q. I'm now showing you what's been marked  
 11 for identification as Defendant's Exhibit 4 on  
 12 September 17, 2013 (handing).  
 13 I'm going to ask if you've seen that  
 14 document before today.  
 15 A. No.  
 16 Q. I'm now showing you what's been marked  
 17 for identification as Defendant's Exhibit 5 on  
 18 September 17, 2013, and I'm going to ask if  
 19 you've ever seen that document before today  
 20 (handing).  
 21 A. No.  
 22 Q. Did you provide any documents to your  
 23 attorneys regarding your claims in this action?  
 24 A. Yes.  
 25 Q. Do you know what you produced?

[Page 20]

1 T. Jackson  
 2 A. A number of things, my manifests, my  
 3 schedule.  
 4 Q. Anything else?  
 5 A. That's all I can remember right now.  
 6 Q. Are manifests different than schedules?  
 7 A. Yes.  
 8 Q. What is your understanding of what a  
 9 manifest is?  
 10 A. A manifest has all the customers' names  
 11 and address that I deliver to.  
 12 Q. Names and addresses?  
 13 A. Yes.  
 14 Q. Did you receive manifests when you were  
 15 performing work as a driver for Late Night?  
 16 A. Did I receive -- yes, I received  
 17 manifests.  
 18 MR. ANDREWS: Objection.  
 19 Q. How frequently did you receive  
 20 manifests?  
 21 A. Excuse me?  
 22 Q. How frequently did you receive  
 23 manifests?  
 24 A. Every day.  
 25 Q. What would be on the schedule you

[Page 21]

1 T. Jackson  
 2 referred to earlier?  
 3 A. The schedule had the time that I was  
 4 supposed to be there.  
 5 Q. When would you receive a schedule?  
 6 A. I only received a schedule one time.  
 7 Q. Have you heard of the company Late Night  
 8 Express Courier Services, Inc.?  
 9 A. Late Night Express is on my check.  
 10 Q. If I refer to Late Night, being  
 11 Late Night Express Courier Services, Inc., for  
 12 the remainder of the deposition, would you know  
 13 what I'm referring to?  
 14 MR. ANDREWS: Objection.  
 15 A. Late Night --  
 16 Q. If I abbreviate the term Late Night to  
 17 refer to Late Night Express Courier Services,  
 18 Inc. for purposes of simplicity in this  
 19 deposition, will you understand that whenever I  
 20 say Late Night, that means Late Night Express  
 21 Courier Services, Inc.?  
 22 A. Late Night Express --  
 23 MR. ANDREWS: Objection.  
 24 A. -- is on my check.  
 25 (Whereupon, a recess was taken)

[6] (Pages 18 to 21)



[Page 22]

1 T. Jackson  
 2 at this time.)  
 3 Q. You said Late Night Express appeared on  
 4 your checks?  
 5 A. On my checks, yes.  
 6 Q. What checks are you referring to?  
 7 A. The checks that I get from Fresh Diet.  
 8 Q. Do you know what the relationship is  
 9 between the Late Night Express and The Fresh  
 10 Diet?  
 11 MR. ANDREWS: Objection.  
 12 A. I really don't know.  
 13 Q. Is it your understanding that when you  
 14 performed work you performed work for The Fresh  
 15 Diet?  
 16 A. Yes.  
 17 Q. What work did you perform for The Fresh  
 18 Diet?  
 19 A. I was a delivery driver.  
 20 Q. From when?  
 21 A. From -- I'm not good with dates. Summer  
 22 of 2007.  
 23 Q. Until when?  
 24 A. Summer of 2011.  
 25 Q. Do you remember the month you started?

[Page 23]

1 T. Jackson  
 2 A. Started? June maybe.  
 3 Q. Do you remember the month you ended?  
 4 A. Anywhere from July to August.  
 5 Q. How did your relationship with The Fresh  
 6 Diet end?  
 7 A. How did it end?  
 8 Q. Yes.  
 9 A. My mom was diagnosed with breast cancer.  
 10 Q. Did you resign?  
 11 A. No.  
 12 MR. ANDREWS: Objection.  
 13 A. I asked for a leave of absence, and then  
 14 during the time I was on leave, they took my  
 15 route.  
 16 Q. Who did you ask for leave of absence?  
 17 A. Syed.  
 18 Q. What did he say?  
 19 A. Okay. That I had to train somebody to  
 20 do my route.  
 21 Q. Did you train anybody?  
 22 A. Yes, I did.  
 23 Q. Who?  
 24 A. His name is Gene. Kimble, I think, is  
 25 his last name.

[Page 24]

1 T. Jackson  
 2 Q. How did you train him?  
 3 A. What do you mean?  
 4 Q. You said you trained him.  
 5 A. Yes.  
 6 Q. Gene Kimble?  
 7 A. Yes.  
 8 Q. What did that entail?  
 9 A. I would -- when we go into the facility,  
 10 I would show him where to pick up his bags,  
 11 show him how to fill out the manifests, take  
 12 him out on my route with me, show him where --  
 13 where it is he had to go, the different stops  
 14 that he had to go to.  
 15 Q. Did there come a time that you asked to  
 16 return to be a driver?  
 17 A. I was supposed to only be out for a  
 18 month.  
 19 Q. Did you ever ask to come back?  
 20 A. Yes, I did.  
 21 Q. Who'd you ask?  
 22 A. Syed.  
 23 Q. What'd he say?  
 24 A. He -- he refused to let me come back on  
 25 the same route, which he told me that I would

[Page 25]

1 T. Jackson  
 2 come back on.  
 3 Q. Did he offer you another route?  
 4 A. He offered me, if I'm not mistaken,  
 5 Jersey and also, I think, Long Island.  
 6 Q. What'd you say?  
 7 A. I told him that he promised me that I  
 8 would get Connecticut.  
 9 Q. Did you refuse to take those routes?  
 10 A. I didn't refuse to take them. I just  
 11 told him that he -- that he told me that he was  
 12 going to put me back on Connecticut. I didn't  
 13 refuse anything, no.  
 14 Q. Did you ever go back to working as a  
 15 driver?  
 16 A. No.  
 17 Q. Why not?  
 18 A. Because he didn't give me back  
 19 Connecticut.  
 20 Q. When you started performing work as a  
 21 driver, where was The Fresh Diet located?  
 22 A. When I started? In New Jersey.  
 23 Q. Do you know if it was a store front or a  
 24 kitchen?  
 25 A. It was -- it was like a catering hall

[7] (Pages 22 to 25)

[Page 26]

1 T. Jackson  
 2 that had a kitchen in the back.  
 3 Q. Do you know the name of the catering  
 4 hall?  
 5 A. No, I don't.  
 6 Q. Do you know the city it was located in?  
 7 A. Lyndhurst, something like that. I don't  
 8 really remember. I think it was Lyndhurst.  
 9 Q. How did you hear about the position?  
 10 A. A friend.  
 11 Q. Who?  
 12 A. Oh, boy. What was her name? I don't  
 13 remember her name. I don't remember her name.  
 14 Q. Do you know if that person was working  
 15 as a driver?  
 16 A. Yes, she was.  
 17 Q. Do you remember what she told you?  
 18 A. When she introduced me to the job?  
 19 Q. Yes.  
 20 MR. ANDREWS: Objection.  
 21 A. She just -- she was doing a route, and  
 22 she -- I started because she wanted me to split  
 23 the route with her to make it easier for her  
 24 because she did a second job. So I started out  
 25 doing half of the route with her.

[Page 27]

1 T. Jackson  
 2 Q. Where was that route?  
 3 A. Connecticut and Westchester.  
 4 Connecticut and New York.  
 5 Q. Did you have a job at the time you  
 6 started?  
 7 A. When I started? Yes.  
 8 Q. Where was that?  
 9 A. PCF.  
 10 Q. What were you doing for PCF at that  
 11 time?  
 12 A. Paper delivery.  
 13 Q. How long had you been working for PCF?  
 14 A. At that time, I was there a couple  
 15 months.  
 16 Q. Where was PCF located?  
 17 A. In Elmsford, New York.  
 18 Q. Elmsford?  
 19 A. Elmsford, yeah.  
 20 Q. Do you know the address?  
 21 A. No.  
 22 Q. Do you know if they're still there?  
 23 A. I don't know.  
 24 Q. What hours were you performing work for  
 25 PCF?

[Page 28]

1 T. Jackson  
 2 A. PCF was same thing as the Connecticut  
 3 one. It's 2:00 to 6:00 Monday through Friday  
 4 and 2:00 to -- 2:00 to 8:00 Saturday and  
 5 Sunday.  
 6 Q. A.m.?  
 7 A. Yes.  
 8 Q. Did you ever stop performing work for  
 9 PCF?  
 10 A. Yes.  
 11 Q. When?  
 12 A. When the work at Fresh Diet became too  
 13 much for me to handle because the routes -- the  
 14 routes became bigger, so I didn't have time to  
 15 get over to PCF.  
 16 Q. Do you know what month you stopped doing  
 17 both?  
 18 A. No, I don't know that.  
 19 Q. There was a period of time where you  
 20 were performing deliveries for both PCF and  
 21 The Fresh Diet?  
 22 A. Yes.  
 23 MR. ANDREWS: Objection.  
 24 Q. Do you know how many months that was?  
 25 A. It wasn't long.

[Page 29]

1 T. Jackson  
 2 Q. After you started performing deliveries  
 3 for The Fresh Diet, did you ever hold another  
 4 position at any other job during that time?  
 5 A. I did work for -- what's the name of the  
 6 place? Oh, boy. Riverside Cardiology, I  
 7 believe.  
 8 Q. A doctor's office?  
 9 A. Or -- no. It was -- no. At that time,  
 10 no. I think I was doing Riverside and PCF  
 11 together, and then I found out about  
 12 Fresh Diet, and then I stopped Riverside and  
 13 did PCF and Fresh Diet, I think.  
 14 Q. Just during the time you were performing  
 15 deliveries for The Fresh Diet.  
 16 A. Right. It was just PCF.  
 17 Q. There wasn't any other position you held  
 18 during the daytime or any other hours while you  
 19 were performing delivery work for The Fresh  
 20 Diet?  
 21 A. From what I can remember, no. From what  
 22 I can remember, no.  
 23 Q. When you were splitting the route with  
 24 your friend, did anyone at The Fresh Diet know  
 25 about that?

[8] (Pages 26 to 29)



[Page 30]

1 T. Jackson  
 2 MR. ANDREWS: Objection.  
 3 A. Yes, Syed.  
 4 Q. Had you met Syed at the time you started  
 5 splitting the route with your friend?  
 6 MR. ANDREWS: Objection.  
 7 A. I met Syed when she took me there the  
 8 very first day.  
 9 Q. What did Syed tell you about the  
 10 position when you met with him the first day?  
 11 A. Just what it entailed, what your duties  
 12 were.  
 13 Q. What was that?  
 14 A. To deliver Fresh Diet bags to  
 15 residential customers.  
 16 Q. At the time you started, you did not  
 17 have your own route; is that correct?  
 18 MR. ANDREWS: Objection.  
 19 A. Not in the beginning.  
 20 Q. How was the route split up?  
 21 MR. ANDREWS: Objection.  
 22 A. If I'm not mistaken, I think she did a  
 23 Connecticut portion of it, and I did a New York  
 24 portion.  
 25 Q. Can you explain what you would do on a

[Page 31]

1 T. Jackson  
 2 day that you were splitting the route with your  
 3 friend and performing deliveries into New York?  
 4 MR. ANDREWS: Objection.  
 5 A. We go pick up the food. Sometimes it  
 6 would be ready, sometimes it's not. If it's  
 7 not, we would help, you know, do whatever's  
 8 left to do, bag it up, bag tie it, put ice,  
 9 whatever needed to be done at that time, and  
 10 after we finished that, we collect the  
 11 manifests and put our bags in the car and go do  
 12 the deliveries.  
 13 Q. Were your deliveries, at that time,  
 14 exclusively in New York?  
 15 A. At that time, yes.  
 16 Q. Do you know how many stops?  
 17 A. I did? No. Not at that time, no. I  
 18 would say, if I had to guess, maybe fifteen.  
 19 Q. How were you paid?  
 20 A. Stops and miles.  
 21 Q. What was the payment per mile?  
 22 A. \$0.53 a mile, a dollar a stop.  
 23 Q. I'm just focusing when it was in  
 24 New Jersey for right now.  
 25 A. Okay.

[Page 32]

1 T. Jackson  
 2 Q. What time would you show up to the  
 3 facility?  
 4 A. Different times.  
 5 Q. What would be the earliest you would  
 6 show up?  
 7 A. The earliest, maybe around 3:00.  
 8 Q. What would be the latest?  
 9 A. The latest, maybe about 6:00.  
 10 Q. How would you know when to show up at  
 11 3:00 as opposed to 6:00?  
 12 A. Well, I would get a phone call or a  
 13 text.  
 14 Q. From who?  
 15 A. From Syed.  
 16 Q. What would it say?  
 17 A. The food is --  
 18 MR. ANDREWS: Objection.  
 19 A. The food is ready.  
 20 Q. Is that how, typically, it worked every  
 21 day for you to know when to --  
 22 A. No.  
 23 Q. -- show up to the facility?  
 24 A. Not every day, no.  
 25 MR. ANDREWS: Remember, let him

[Page 33]

1 T. Jackson  
 2 finish the question, and then answer.  
 3 A. Oh, I'm sorry. Not every day.  
 4 Q. If you didn't get a call or a text, what  
 5 time would you show up?  
 6 MR. ANDREWS: Objection.  
 7 A. Anywhere between 3:00 and 6:00.  
 8 Q. If you showed up at 3:00, would meals be  
 9 ready to be delivered at that time?  
 10 A. Not all the time.  
 11 Q. Sometimes?  
 12 A. Sometimes.  
 13 Q. If they were ready at 3:00, would you  
 14 start deliveries then?  
 15 A. If they were ready at 3:00 -- if  
 16 everything was ready at 3:00 and bagged, yes.  
 17 Q. Were there certain days of the week you  
 18 would show up at 3:00 p.m. and certain days of  
 19 the week you would show up at 6:00 p.m.?  
 20 A. It just varies.  
 21 Q. How long would it take you to perform  
 22 deliveries at the time you were in New Jersey  
 23 delivering to New York?  
 24 A. Was that before we split the route or  
 25 after?

[9] (Pages 30 to 33)

[Page 34]

1 T. Jackson  
2 Q. At the beginning.  
3 A. At the beginning when I started on a  
4 half a route, you want to know the time that  
5 we -- I finished?  
6 Q. Yes.  
7 A. It varies.  
8 Q. The earliest you would be done.  
9 A. Maybe 3:00.  
10 Q. 3:00 a.m.?  
11 A. Yes.  
12 Q. What about the latest?  
13 A. Maybe about 5:00, 6:00 in the morning.  
14 Q. What would make it change that you would  
15 be done at 3:00 a.m. on some days compared to  
16 5:00 or 6:00 a.m. on other days?  
17 A. Depends on the miles and the stops.  
18 Q. That was not always the same?  
19 A. No, not all the time.  
20 Q. Were there ever times where you would  
21 show up at 6:00 p.m. to start your deliveries  
22 and end at 3:00 a.m.?  
23 MR. ANDREWS: Objection.  
24 A. It's possible. It's possible depending  
25 on all the stops and the miles.

[Page 35]

1 T. Jackson  
2 Q. Did you ever show up later than  
3 6:00 p.m.? Again, focusing on the New Jersey  
4 facility right now.  
5 A. I don't -- I don't know. I don't think  
6 so.  
7 Q. When you got your own route, did the  
8 hours change?  
9 MR. ANDREWS: Objection.  
10 A. I would still come in around the same  
11 time, between 3:00 and 6:00.  
12 Q. Would the times you would finish be  
13 different?  
14 A. Depending on my hours and stops, my  
15 stops and my miles.  
16 Q. Again, this is when you're in  
17 New Jersey, and now you have your own route.  
18 Okay?  
19 A. Right.  
20 Q. What would be the earliest you would be  
21 done at that time?  
22 A. Anywhere from 3:00 in the morning.  
23 Q. Until what time?  
24 A. Until 5:00 or 6:00 in the morning.  
25 Q. Where was your route when you had your

[Page 36]

1 T. Jackson  
2 own route?  
3 A. At that time, I started doing  
4 Connecticut and New York by myself. She quit.  
5 Q. Would you perform stops in both  
6 Connecticut and New York in the same night?  
7 A. Yes. At that time, yes.  
8 Q. How many stops were there when you got  
9 your own route?  
10 MR. ANDREWS: Objection.  
11 A. It varies.  
12 Q. What would be the minimum number of  
13 stops?  
14 A. Minimum, maybe twenty, twenty-five.  
15 Q. What about the maximum?  
16 A. Maybe about thirty, thirty-five.  
17 Q. How far did you live, driving time, from  
18 the New Jersey facility?  
19 A. Maybe thirty, forty minutes depending on  
20 traffic.  
21 Q. When you finished a route when you were  
22 working from the New Jersey facility, did you  
23 go back to the New Jersey facility?  
24 A. Not New Jersey, no.  
25 Q. Where would you go after you were done?

[Page 37]

1 T. Jackson  
2 A. Home.  
3 Q. Would you have the empty bags in your  
4 car?  
5 A. Yes.  
6 Q. Did you report to anyone at The Fresh  
7 Diet when you finished your route?  
8 A. Sometimes Syed.  
9 Q. Were there times that you did not  
10 report?  
11 A. Sometimes, yes.  
12 Q. What would make you report as opposed to  
13 not report on a given night?  
14 A. Sometimes he would ask for us to report,  
15 and it depends on if there's any problems,  
16 maybe bad weather. It depends on whatever's  
17 going on during that time.  
18 Q. There were times that nobody would have  
19 known from The Fresh Diet when you finished  
20 your route?  
21 MR. ANDREWS: Objection.  
22 A. At that time, I don't remember.  
23 Q. Did the location of The Fresh Diet  
24 facility ever change from New Jersey to another  
25 location?

[10] (Pages 34 to 37)

[Page 38]

1 T. Jackson  
 2 A. Yes.  
 3 Q. Where did it first change to during the  
 4 time you were performing --  
 5 A. After New Jersey?  
 6 Q. After New Jersey.  
 7 A. Connecticut.  
 8 Q. Do you know where in Connecticut?  
 9 A. I don't remember the address, but I know  
 10 it was Stamford.  
 11 Q. Did The Fresh Diet have its own kitchen  
 12 at that location?  
 13 A. No.  
 14 Q. Was it similar to the catering place --  
 15 A. Yes.  
 16 Q. -- in New Jersey?  
 17 A. Yes.  
 18 Q. Did your duties change --  
 19 A. At that time, yes.  
 20 Q. How did they change?  
 21 A. At that time, we didn't have packers in  
 22 the beginning, so we had to pack and sort out  
 23 the food and put ice on them and bag ties.  
 24 Q. In New Jersey you had to do that?  
 25 A. No. We did it in New Jersey, but when

[Page 39]

1 T. Jackson  
 2 we moved from New Jersey to Connecticut, we  
 3 didn't have any packers at all. In New Jersey,  
 4 there were the people -- in the New Jersey  
 5 kitchen, there were a few packers, so we would  
 6 help them, but once we moved to Connecticut,  
 7 there were no packers at all until maybe --  
 8 maybe a week or two after we got there.  
 9 Q. Then there were packers?  
 10 A. Then they started hiring packers.  
 11 Q. Going back to when you first started, do  
 12 you know what other drivers there were working  
 13 for The Fresh Diet at that time?  
 14 A. No. At that time, no.  
 15 Q. Do you recall any other drivers that  
 16 were working other than you and your friend?  
 17 A. It was Kenneth. It was my nephew.  
 18 Q. Kenneth Chow?  
 19 A. Yes.  
 20 It was David Williams. It was a guy  
 21 named Ken. There was a few other people, but I  
 22 don't remember everybody's name.  
 23 Q. You moved to Connecticut.  
 24 Did your route change?  
 25 A. It got bigger.

[Page 40]

1 T. Jackson  
 2 Q. How did it get bigger?  
 3 A. Got more stops.  
 4 Q. What states were you performing  
 5 deliveries in?  
 6 A. Still New York and Connecticut.  
 7 Q. Did the pay structure change?  
 8 A. No, not in Connecticut.  
 9 Q. But you got more stops?  
 10 A. I got more stops, yes.  
 11 Q. How many stops did you get when the  
 12 facility moved to Connecticut?  
 13 A. I think I was -- at that time, I was  
 14 getting anywhere between thirty or forty maybe.  
 15 Q. Did the hours change?  
 16 A. It was pretty much the same hours.  
 17 Q. They varied day to day?  
 18 A. Yes. Depending on what needed to be  
 19 done, yes.  
 20 Q. How far away did you live, driving time,  
 21 from the Connecticut facility?  
 22 A. Maybe forty or fifty minutes depending  
 23 on traffic.  
 24 Q. You would still arrive sometime between  
 25 3:00 p.m. and 6:00 p.m.?

[Page 41]

1 T. Jackson  
 2 A. Yes.  
 3 Q. And be finished sometime between  
 4 3:00 a.m. and 6:00 a.m.?  
 5 A. Sometimes, yes.  
 6 Q. Were you ever done earlier than  
 7 3:00 a.m.?  
 8 A. I don't think so.  
 9 Q. Did you ever start later than 6:00 p.m.?  
 10 A. Yes.  
 11 Q. What was the latest you would start?  
 12 A. The latest? That varies. I don't have  
 13 an answer for you.  
 14 Q. Would you ever start at 7:00 p.m.?  
 15 A. Sometimes.  
 16 Q. Would you ever start at 8:00 p.m.?  
 17 A. Sometimes.  
 18 Q. Would you ever start at 9:00 p.m.?  
 19 A. Sometimes.  
 20 Q. Would you ever start at 10:00 p.m.?  
 21 Again, we're just focused on the  
 22 Connecticut location right now.  
 23 A. In Connecticut, I really don't know. It  
 24 depends on whenever we finished packing up and  
 25 putting everything in our car.

[11] (Pages 38 to 41)

[Page 42]

1 T. Jackson  
2 Q. Did you ever arrive at the Connecticut  
3 facility later than 6:00 p.m.?  
4 A. No, I don't think so.  
5 Q. Do you know when Fresh Diet moved from  
6 New Jersey to Connecticut?  
7 A. Do I know a year?  
8 Q. The year.  
9 A. I don't know if it was between 2008 or  
10 2009. I can't give you the date. I don't  
11 remember that.  
12 Q. Did it ever move locations from  
13 Connecticut to another facility?  
14 A. Connecticut to Brooklyn.  
15 Q. Do you remember what year that happened?  
16 A. Anywhere from 2009 to 2010.  
17 Q. Do you remember the street address of  
18 the location in Brooklyn?  
19 A. The first one was Siegel Street.  
20 Q. Was there a second one?  
21 A. Yes.  
22 Q. Where was that?  
23 A. I don't remember the exact address. I  
24 know it started with a B.  
25 Q. Does Baltic sound familiar?

[Page 43]

1 T. Jackson  
2 A. Sounds familiar.  
3 Q. When the facility moved to the  
4 Siegel Street location --  
5 A. Yes.  
6 Q. -- did it have its own kitchen at that  
7 time?  
8 A. At that time, yes, they had their own  
9 kitchen.  
10 Q. Were there packers?  
11 A. At that time, yes. The ones from  
12 Connecticut followed. Yes.  
13 Q. Did your duties change when the location  
14 was moved to Siegel Street?  
15 A. No, still help pack whenever needed,  
16 help put bag ties on, help sort out food,  
17 help -- whatever needed to be done on that day  
18 to get us out.  
19 Q. Did the hours change when it was moved  
20 to the Siegel Street location?  
21 A. In the beginning, no. Towards the  
22 middle is when I think they gave us a schedule.  
23 Q. The middle of the time they were at the  
24 Siegel Street location?  
25 A. At the Siegel Street location.

[Page 44]

1 T. Jackson  
2 Q. How far were you living from the  
3 Brooklyn facility at the Siegel Street  
4 location?  
5 A. I ended up moving to Brooklyn with them.  
6 Q. How far of a drive was it?  
7 A. Depending on traffic, I would say about  
8 fifteen, twenty minutes.  
9 Q. Did you have the same route when it was  
10 moved to the Siegel Street location?  
11 A. Pretty much, yes. We ended up switching  
12 routes at the Siegel Street. I got the  
13 New Jersey route that my nephew had, and he  
14 took the Connecticut route.  
15 Q. Do you know how many stops the  
16 New Jersey route had?  
17 A. I don't remember.  
18 Q. Can you approximate?  
19 A. Twenty-five to thirty-five. It was  
20 actually New Jersey and New York.  
21 Q. This route made stops in both New Jersey  
22 and New York?  
23 A. Yes.  
24 Q. On the same night, you would make stops  
25 in both states?

[Page 45]

1 T. Jackson  
2 A. Yes.  
3 Q. Do you remember the cities that you  
4 delivered to in New Jersey?  
5 A. It varies. I would say I remember  
6 Princeton because I did the -- I ended up doing  
7 the Philly drop-offs to Princeton. Allentown,  
8 I think. I don't remember all of the towns.  
9 Q. Where were you delivering in New York?  
10 A. New York was mainly Staten Island and  
11 Brooklyn.  
12 Q. Did the route ever change again for you?  
13 A. For me? After a while, I went back to  
14 Connecticut, yes.  
15 Q. When was that?  
16 Was Fresh Diet still in the  
17 Siegel Street location or Baltic when you  
18 started doing the Connecticut route again?  
19 A. I don't remember. I don't remember.  
20 Q. When you were doing the Connecticut  
21 route, was that more stops than the  
22 New Jersey/New York route?  
23 A. I don't remember that either. I can't  
24 honestly tell you that.  
25 MR. POLLACK: Can we take a

[12] (Pages 42 to 45)

[Page 46]

1 T. Jackson  
 2 quick two-minute break?  
 3 MR. ANDREWS: Yes.  
 4 (Whereupon, a recess was taken  
 5 at this time.)  
 6 Q. Going back to when you were in the  
 7 Connecticut location, did you ever report back  
 8 to the facility at the end of your route?  
 9 A. In Connecticut?  
 10 Q. Yes.  
 11 A. No.  
 12 Q. Would you ever report to anyone at  
 13 The Fresh Diet that you had finished a delivery  
 14 when they were at the Connecticut location?  
 15 A. Sometimes Syed.  
 16 Q. Sometimes you wouldn't?  
 17 A. Sometimes I wouldn't, no.  
 18 Q. When it was at the Siegel Street  
 19 location, did you report back to the facility  
 20 at the end of a route?  
 21 A. Yes, but I didn't -- I think that's when  
 22 they started making us bring the bags back.  
 23 Q. Do you remember when that happened?  
 24 A. The date? No.  
 25 Q. The year?

[Page 47]

1 T. Jackson  
 2 A. Maybe 2010, 2009.  
 3 Q. When you say "they started making us  
 4 bring the bags back," what do you mean? How  
 5 did that happen?  
 6 A. Well, that happened -- that started  
 7 because they were calling us to come in early  
 8 because they didn't have enough bags, so we  
 9 would have to come in earlier sometimes to  
 10 bring in our empties. So then that's when they  
 11 started coming up with you had to come back at  
 12 the end of the night to bring the empties back.  
 13 Q. Did you do that?  
 14 A. Come back at the end of the night?  
 15 Q. Yes.  
 16 A. Yes, sometimes. Not all the time,  
 17 sometimes.  
 18 Q. If you ever didn't bring the bags back  
 19 at the end of the night, were you ever  
 20 disciplined?  
 21 A. At that time -- at that time, no,  
 22 because I lived close by, so I would bring them  
 23 early the next day.  
 24 Q. Did you ever enter into any type of  
 25 agreement with Late Night Express?

[Page 48]

1 T. Jackson  
 2 MR. ANDREWS: Objection.  
 3 A. With Late Night Express?  
 4 Q. Yes.  
 5 A. No.  
 6 (Whereupon, Late Night Express  
 7 Independent Contractor Agreement was  
 8 marked as Defendant's Exhibit 49, for  
 9 identification, as of this date.)  
 10 Q. Now I'm going to show you a document  
 11 that's been marked for identification as  
 12 Defendant's Exhibit 49 (handing).  
 13 A. Okay.  
 14 Q. I'm going to ask you to look through  
 15 that document and tell me if you've ever seen  
 16 that before today.  
 17 A. This is the contract?  
 18 Q. I'm just asking if you've seen that  
 19 document before today.  
 20 A. Yes.  
 21 Q. Is that your signature?  
 22 A. Yes, it is.  
 23 Q. Does your signature appear on the fourth  
 24 page of the document?  
 25 A. No, that's not the fourth page.

[Page 49]

1 T. Jackson  
 2 MR. ANDREWS: He's asking you  
 3 about this page (indicating).  
 4 THE WITNESS: Oh. Oh. Oh.  
 5 Okay.  
 6 A. Yeah, that is the fourth page. Okay.  
 7 Yes.  
 8 Q. On the --  
 9 A. Yes.  
 10 Q. -- document marked FD000780?  
 11 A. Yes.  
 12 Q. Does your signature appear on the  
 13 following page, FD000781?  
 14 A. Yes.  
 15 Q. Does your signature appear on the  
 16 document FD000782?  
 17 A. Yes. 782, yes.  
 18 Q. Do you know if you signed this document  
 19 on or about October 10, 2010?  
 20 A. October 10th? Yes, that's the date  
 21 that's here.  
 22 Q. Did you read this document before you  
 23 signed it?  
 24 A. I read some of it, not all.  
 25 Q. What is your understanding of what this

[13] (Pages 46 to 49)



[Page 50]

1 T. Jackson  
2 document is?  
3 MR. ANDREWS: Objection.  
4 A. It's just telling us our  
5 responsibilities and duties and our  
6 requirements from Fresh Diet.  
7 Q. Did you understand paragraph 11 of the  
8 document when you signed it?  
9 A. Paragraph 11?  
10 MR. ANDREWS: Objection.  
11 A. Okay. Repeat that question.  
12 Q. Did you understand that provision or  
13 that paragraph when you signed the document?  
14 MR. ANDREWS: Objection.  
15 A. At the time, no, I didn't read that  
16 part.  
17 Q. Did you understand yourself to be an  
18 independent contractor of The Fresh Diet at the  
19 time you were performing deliveries?  
20 MR. ANDREWS: Objection.  
21 A. At that time, that's what Fresh Diet  
22 told us.  
23 (Whereupon, Class action  
24 affidavit was marked as Defendant's  
25 Exhibit 50, for identification, as of

[Page 51]

1 T. Jackson  
2 this date.)  
3 Q. I'm now showing you what's been marked  
4 for identification as Defendant's Exhibit 50,  
5 and I'm going to ask if you've seen that  
6 document before today (handing).  
7 A. Yes.  
8 Q. What is your understanding of that  
9 document?  
10 A. That one?  
11 Q. Yes.  
12 A. This is to -- this is pertaining to our  
13 wages and overtime that we didn't get paid for.  
14 Q. Is this a copy of the affidavit you  
15 referred to earlier that you reviewed in  
16 preparation for today's deposition?  
17 A. This is a copy of my affidavit, yes.  
18 Q. Earlier, you said that you had reviewed  
19 your affidavit in preparation for today's  
20 deposition, correct?  
21 A. Yes, mine. Yes.  
22 Q. Is this a copy of the document you  
23 reviewed?  
24 A. Yes, this looks like a copy of it.  
25 Q. Is that your signature on the third page

[Page 52]

1 T. Jackson  
2 of the document?  
3 A. Yes, it is.  
4 Q. Did you sign it on or about  
5 January 25, 2013?  
6 A. Yes.  
7 Q. How long have you been a Connecticut  
8 resident?  
9 A. Two years now.  
10 Q. Three years?  
11 A. Two.  
12 Q. Where did you live before Connecticut?  
13 A. Brooklyn.  
14 Q. Do you know the address?  
15 A. I think it was 826 Thomas Boyland.  
16 MR. ANDREWS: 826 --  
17 THE WITNESS: Thomas Boyland.  
18 MR. ANDREWS: Thomas Boyland  
19 Street?  
20 THE WITNESS: I don't know if  
21 it's street or avenue. I just know --  
22 it might be street.  
23 Q. Was it an apartment?  
24 A. Yes.  
25 Q. That was in Brooklyn?

[Page 53]

1 T. Jackson  
2 A. Yes.  
3 Q. How long did you reside there?  
4 A. Maybe two years, three years. Maybe two  
5 years.  
6 Q. Was that one of the places you were  
7 living when you were performing work as a  
8 driver for The Fresh Diet?  
9 A. Yes.  
10 Q. Did you live in any other places during  
11 the time you were performing deliveries as a  
12 driver?  
13 A. Before Brooklyn?  
14 Q. Before Brooklyn.  
15 A. Yonkers, New York.  
16 Q. Do you remember the address there?  
17 A. 12 Convert, C-O-N-V-E-R-T.  
18 Q. That was in Yonkers?  
19 A. Yes.  
20 Q. Was that an apartment?  
21 A. Yes.  
22 Q. Do you remember the apartment number?  
23 A. I just know it's first floor.  
24 Q. Any other residences at the time you  
25 were performing work as a delivery driver?

[14] (Pages 50 to 53)



[Page 54]

1 T. Jackson  
 2 A. I think that's it.  
 3 Q. Were you ever living --  
 4 A. I think I did live on -- I think I did  
 5 live on Robbin Street, I think. Yeah, I did  
 6 live there for a little while with my sister.  
 7 Q. Were you ever living in Connecticut at  
 8 the time you were performing work as a driver  
 9 for The Fresh Diet?  
 10 A. Yes, towards the end.  
 11 Q. Turning your attention to paragraph 3 of  
 12 Defendant's 50 --  
 13 A. Paragraph 3?  
 14 Q. 3.  
 15 A. On the second page?  
 16 Q. On the second page, yes.  
 17 Do you see the sentence that says "My  
 18 responsibilities as a driver/food delivery  
 19 employee for the defendants consisted  
 20 exclusively of showing up at The Fresh Diet's  
 21 Brooklyn facilities, receiving instructions as  
 22 to my delivery routes, obtaining prepared  
 23 meals, and personally delivering them to The  
 24 Fresh Diet's customers".  
 25 Do you see that sentence?

[Page 55]

1 T. Jackson  
 2 A. Okay. Right here (indicating). Yes.  
 3 Yes.  
 4 Q. When it says you received instructions  
 5 as to the delivery routes, what does that mean?  
 6 A. Okay. We pick up the manifest. If  
 7 there's any key pickups, any changes on where  
 8 the customers want us to leave their bags,  
 9 anything pertaining to the route, he -- Syed  
 10 would give us the information.  
 11 Q. Would he give it to you verbally, or was  
 12 it written?  
 13 A. Sometimes it was written, sometimes it  
 14 was verbally.  
 15 Q. If it was written, where would it be  
 16 located?  
 17 A. He would give us a piece of paper, like  
 18 an e-mail.  
 19 Q. The second sentence of that third  
 20 paragraph says, "After completing my meal  
 21 deliveries, I would have to return to The Fresh  
 22 Diet's Brooklyn facilities to report back,  
 23 complete required paperwork, and return empty  
 24 bags".  
 25 Do you see that sentence?

[Page 56]

1 T. Jackson  
 2 A. Yes.  
 3 Q. What paperwork were you required to  
 4 complete?  
 5 A. The manifest.  
 6 Q. When did you complete that?  
 7 A. Mainly, I would complete it after I  
 8 finished the route.  
 9 Q. What information would you have to  
 10 provide?  
 11 A. How many bags I brought back, how many  
 12 pieces of ice I brought back.  
 13 Q. You wouldn't do that until you finished  
 14 the route?  
 15 A. I mainly wouldn't do that until I got  
 16 back. I didn't really count the total until I  
 17 got back.  
 18 Q. Did you ever fill out any information on  
 19 the manifests?  
 20 A. Yes.  
 21 Q. What information was that?  
 22 A. The times, the pieces of ice, and the  
 23 cooler bags that I brought back.  
 24 Q. When you say "the times," what do you  
 25 mean by that?

[Page 57]

1 T. Jackson  
 2 A. The times that I reach each stop on my  
 3 manifest.  
 4 Q. When would you record the times?  
 5 A. On my manifests? The times that I got  
 6 there to the stops?  
 7 Q. Yes.  
 8 A. Yeah.  
 9 Q. Would you do that at the time that you  
 10 arrived at the stop or at the time that you  
 11 finished a stop?  
 12 A. I think mainly when I got there.  
 13 Sometimes before, sometimes after depending.  
 14 Q. You would handwrite a time --  
 15 A. Yes.  
 16 Q. -- that you arrived?  
 17 A. Yes.  
 18 MR. ANDREWS: Remember, let him  
 19 finish, and then answer.  
 20 Q. Did you ever hand that paperwork in to  
 21 anyone?  
 22 A. Sometimes Syed.  
 23 Q. Were there times that you did not hand  
 24 that paperwork in to Syed?  
 25 A. It depends on if he's there at the time

[15] (Pages 54 to 57)

[Page 58]

1 T. Jackson  
2 or not.  
3 Q. If he was not there, would you hand it  
4 in to anyone?  
5 A. No.  
6 Q. What would you do with it?  
7 A. Take it home with me.  
8 Q. When did these requirements get  
9 implemented?  
10 A. Which ones?  
11 Q. To return to the facility, to report  
12 back, complete required paperwork, and return  
13 empty bags.  
14 A. I don't have a specific date.  
15 Q. This wasn't until after they were at  
16 Siegel Street?  
17 A. Yes.  
18 Q. Looking at paragraph 6, it says,  
19 "Throughout my employment, I often worked  
20 significantly in excess of forty hours a week,  
21 yet was never paid overtime compensation of one  
22 and half times my regular rate of pay".  
23 Do you see that?  
24 A. Yes.  
25 Q. What do you mean by that statement?

[Page 59]

1 T. Jackson  
2 A. Meaning I did more than forty hours a  
3 week, and I never got paid for the overtime.  
4 Q. You were paid for mileage and stops,  
5 correct?  
6 A. Yes.  
7 Q. How many hours did you work?  
8 MR. ANDREWS: Objection.  
9 A. I really don't know. On a week,  
10 anywhere from sixty to eighty maybe.  
11 Q. How would you come up with that number?  
12 A. Sometimes, like I said, we would come in  
13 and have to help bag, put on bag ties, separate  
14 the food, sort out the food, whatever needed to  
15 be done that day. Sometimes, you know, the  
16 food wasn't ready. Sometimes everything was  
17 not bagged. Different things. Sometimes they  
18 didn't have ice, they had to run out and get  
19 ice. Sometimes they didn't have enough bags.  
20 Depending on what was going on that day.  
21 Q. Were there ever times that the food was  
22 ready and packed in a meal bag with a bag tie  
23 for you to simply deliver?  
24 A. Yeah, there was.  
25 Q. When The Fresh Diet was located at the

[Page 60]

1 T. Jackson  
2 Siegel Street location, what times would you  
3 arrive at the facility?  
4 MR. ANDREWS: Objection.  
5 A. At Siegel?  
6 Q. At Siegel.  
7 A. Anywhere between 3:00 and 6:00 until we  
8 got a regular schedule.  
9 Q. When you got a regular schedule, what  
10 time were you showing up to the facility?  
11 A. If I'm not mistaken, I think my time was  
12 between 6:00 or 6:30, something like that.  
13 Q. Do you remember when that schedule was  
14 implemented?  
15 A. No, I don't remember.  
16 Q. After the schedule was implemented,  
17 would you show up between 6:00 and 6:30 every  
18 night?  
19 MR. ANDREWS: Objection.  
20 A. Yes, pretty much.  
21 Q. You would never show up later?  
22 A. No. I don't believe so, no.  
23 Q. Do you know if other drivers showed up  
24 later?  
25 A. Everybody had their different times to

[Page 61]

1 T. Jackson  
2 be there.  
3 Q. Do you know if any drivers were  
4 scheduled to come in later than 6:30 p.m.?  
5 A. Yeah, there were drivers that were  
6 scheduled later than me. Yes.  
7 Q. Do you know the names of any of those  
8 drivers?  
9 A. No, I can't tell you that.  
10 Q. After the schedule was implemented, what  
11 was the earliest you would begin performing  
12 deliveries?  
13 MR. ANDREWS: Objection.  
14 A. The actual deliveries?  
15 Q. The actual deliveries.  
16 A. That varies.  
17 Q. The earliest.  
18 A. Maybe 6:30, 7:00.  
19 Q. What about the latest?  
20 A. That varies.  
21 Q. What could be the latest that it would  
22 be?  
23 A. What could be the latest?  
24 Q. What was the latest it would be?  
25 A. For me, 2:00 in the morning.

[16] (Pages 58 to 61)

[Page 62]

1 T. Jackson  
2 Q. You would start?  
3 A. I started at 2:00 in the morning.  
4 Q. When you started at 2:00 in the morning,  
5 do you remember how many times that happened?  
6 A. That happened once.  
7 Q. Other than that one occasion, would you  
8 ever show up at 1:00 in the morning?  
9 A. No.  
10 Q. Midnight?  
11 A. No. Show up to pick up my bags? No.  
12 Q. What was the latest, other than that one  
13 occasion, that you would start performing  
14 deliveries?  
15 MR. ANDREWS: Objection.  
16 A. That varies. 10:00, 9:00. It depends  
17 on what needed to be done that day.  
18 Q. 10:00 p.m. or 9:00 p.m.?  
19 A. Yeah.  
20 Q. What was the earliest you would be done  
21 with your deliveries?  
22 A. Earliest?  
23 Q. Now we're focused on the Siegel Street  
24 location.  
25 A. The earliest? The earliest, maybe 3:00

[Page 63]

1 T. Jackson  
2 or 4:00 depending on how many stops and miles I  
3 have for the night.  
4 Q. What about the latest?  
5 A. Anywhere from 5:00 to 6:00 in the  
6 morning.  
7 Q. Did you have a regular last stop when  
8 you were performing deliveries from the  
9 Siegel Street location?  
10 A. Not really, depends on who's on for the  
11 night. The -- the manifest changes, so, you  
12 know, depends on who I deliver to that night,  
13 that particular night. So it varies.  
14 Q. Were the hours the same at the  
15 Baltic Street location?  
16 A. Pretty much, yeah.  
17 Q. Looking at paragraph 7 of  
18 Defendant's 50, it says, "During my employment  
19 with the defendants, I interacted with other  
20 drivers/food delivery employees on a daily  
21 basis, and know that my own experiences were  
22 typical of how these employees were supervised  
23 and compensated".  
24 Do you see that sentence?  
25 A. Yes.

[Page 64]

1 T. Jackson  
2 Q. What other drivers are you referring to  
3 in that paragraph?  
4 A. My nephew, my sister, David, Kenneth,  
5 and other people.  
6 Q. When you say --  
7 A. Bryant, Fernando. There's more. I  
8 don't remember everybody.  
9 Q. How do you know that your own  
10 experiences were typical of how the other  
11 employees were supervised and compensated?  
12 A. We pretty much all did the same thing.  
13 If we came in and the bags wasn't ready, we  
14 pitched in and helped pack it and put bag ties  
15 on. Whatever needed to be done that day, we  
16 did.  
17 Q. Do you know the routes that everybody  
18 else drove?  
19 A. There were different routes for  
20 different people, so I don't -- I don't know  
21 who drove what at what time.  
22 Q. Did you know how long it took anyone  
23 else to complete their route?  
24 A. I really don't know that.  
25 Q. Did you ever show up late after the

[Page 65]

1 T. Jackson  
2 schedule was implemented?  
3 MR. ANDREWS: Objection.  
4 A. I don't think so.  
5 Q. Did you ever take any vacation  
6 between --  
7 A. No.  
8 MR. ANDREWS: Let him finish.  
9 Q. -- 2007 and 2011?  
10 A. No, never took a vacation.  
11 Q. Did you ever take a sick day?  
12 A. Did I ever take a sick day?  
13 Q. Were you ever sick during 2007 --  
14 A. Yes, I was.  
15 Q. If you were sick, did you perform  
16 deliveries that night?  
17 A. Sometimes.  
18 Q. Were there times that you did not  
19 perform deliveries because you were sick?  
20 A. Depends on what the problem was.  
21 Q. Was there ever a time that you did not  
22 show up to work to perform deliveries?  
23 A. One night I didn't show up because I had  
24 burnt my leg, so I had to call and tell him  
25 that I burnt my leg so I could go to the

[17] (Pages 62 to 65)

[Page 66]

1 T. Jackson  
 2 emergency room and get that taken care of.  
 3 Another time, I sprained my foot, so I had to  
 4 go to the emergency room, get that taken care  
 5 of. When I found out my mother had breast  
 6 cancer, the day she had surgery.  
 7 Q. Did you use your own car when you  
 8 performed deliveries?  
 9 A. Yes, I did.  
 10 Q. What car did you have in 2007?  
 11 A. At that time, I think I had a Sable, I  
 12 think.  
 13 Q. What's that?  
 14 A. Sable.  
 15 Q. What --  
 16 A. Is it a Mercury Sable? Mercury Sable.  
 17 I think that's the name of it.  
 18 Q. Did you have different cars between --  
 19 A. Yes, I did.  
 20 Q. How many different cars?  
 21 A. I had a Mercury Sable, and then I had a  
 22 van that was a -- I forgot what kind of van it  
 23 was. It was red. I forgot. And then I had a  
 24 Ford Windstar, which is the van that I have  
 25 now.

[Page 67]

1 T. Jackson  
 2 Q. Did you have --  
 3 A. It was three cars in all.  
 4 Q. Did you own those cars?  
 5 A. Yes, they were mine.  
 6 Q. Do you have insurance for the cars?  
 7 A. Yes, I do.  
 8 Q. Who paid for the insurance?  
 9 A. I did.  
 10 (Whereupon, Manifests were  
 11 marked as Defendant's Exhibit 51, for  
 12 identification, as of this date.)  
 13 (Whereupon, a recess was taken  
 14 at this time.)  
 15 Q. I'm now going to show you a document  
 16 that's been marked as Defendant's Exhibit 51,  
 17 which are Bate stamp numbered FD003415 to  
 18 FD004192, and they've been represented to us as  
 19 documents that set forth the number of hours  
 20 you worked to support your claims in the  
 21 complaint, and I'm going to ask you if you've  
 22 seen those documents before today (handing).  
 23 MR. ANDREWS: Objection.  
 24 A. Yes.  
 25 Q. Does your handwriting appear on any of

[Page 68]

1 T. Jackson  
 2 those documents?  
 3 A. Yes.  
 4 MR. ANDREWS: You can take the  
 5 rubber band off if you want.  
 6 Q. You said yes?  
 7 A. Yes.  
 8 Q. Wherever the handwriting appears, is it  
 9 your handwriting?  
 10 I'm going to ask you to take your time.  
 11 A. Some of them, yes. Some of them, no.  
 12 MR. ANDREWS: If you need to  
 13 take time, that's a lot of paper, so  
 14 don't rush.  
 15 Q. I'm going to need you to tell me --  
 16 A. Which ones are mine?  
 17 Q. -- which ones have your handwriting.  
 18 You can see it's double-sided, so take  
 19 your time.  
 20 A. This one looks like my handwriting  
 21 (indicating).  
 22 MR. ANDREWS: Why don't you read  
 23 the number? Can you read that number?  
 24 THE WITNESS: Yes.  
 25 A. It's FD003468.

[Page 69]

1 T. Jackson  
 2 Q. For that document, you say it may  
 3 contain your handwriting?  
 4 A. It looks like my handwriting. Yes, I  
 5 think this is my handwriting.  
 6 MR. ANDREWS: Speak up so she  
 7 can record all of this.  
 8 A. It looks like -- that one looks like my  
 9 handwriting.  
 10 Q. You're referring to FD003468?  
 11 A. Yes.  
 12 Q. Is it your handwriting on 003469?  
 13 A. 3469? 69? What did you say, 003479?  
 14 Q. No, 69.  
 15 MR. ANDREWS: Here, this page  
 16 (handing).  
 17 A. It looks like my handwriting.  
 18 Q. Do you know if it's your handwriting?  
 19 A. I really can't say for sure. It looks  
 20 like it though. It looks like it.  
 21 MR. ANDREWS: Just for the  
 22 record, she's reading from FD003470.  
 23 It's just the opposite page of that.  
 24 A. That looks like my handwriting  
 25 (indicating).

[18] (Pages 66 to 69)

[Page 70]

1 T. Jackson  
2 Q. You're referring to FD003479?  
3 A. This one is FD003479?  
4 Q. That is your handwriting?  
5 A. Yes, it looks like that. Yeah, it looks  
6 like that's mine.  
7 That looks like my handwriting  
8 (indicating). This is FD003481.  
9 Q. What about on 3482?  
10 A. Yes, that looks like my handwriting  
11 also.  
12 Q. Let's take a quick second and look at  
13 FD003481 to 003482.  
14 A. Okay.  
15 Q. Is that a sample of a manifest you were  
16 referring to earlier in your --  
17 A. Yes.  
18 Q. -- deposition?  
19 A. Yes.  
20 Q. Does that contain the time you were  
21 referring to that you would insert on a  
22 manifest?  
23 A. Yes.  
24 Q. That indicates the time you would have  
25 made a drop-off for that particular customer?

[Page 71]

1 T. Jackson  
2 A. Yeah.  
3 Q. Do you see that it says "May 24, 2010"?  
4 A. Yes.  
5 Q. There are nineteen stops for that route  
6 for that --  
7 A. For that day, yes.  
8 Q. -- day, right?  
9 What time does it indicate?  
10 Go ahead. Take your time.  
11 A. This looks like eighteen stops. This  
12 looks like eighteen stops.  
13 Q. That's a sample of a manifest you would  
14 receive?  
15 A. Yes.  
16 Q. Would that be a complete route for the  
17 night of May 24, 2010?  
18 A. Yes.  
19 Q. Does that indicate the time you would  
20 have made your first delivery?  
21 A. Yes.  
22 Q. What time is that?  
23 A. 10:19.  
24 Q. Is that what you're referring to on the  
25 first row on the document FD003481?

[Page 72]

1 T. Jackson  
2 A. Yes, it's the first stop.  
3 Q. 10:19 p.m.?  
4 A. Yes.  
5 Q. On the following page, being 3482, does  
6 that indicate the time of the last stop?  
7 A. Yes.  
8 Q. What time is that?  
9 A. Oh, actually not. I didn't do this one.  
10 Q. Meaning you didn't do the --  
11 A. I didn't -- I performed it, but I must  
12 have forgotten to put in the time.  
13 Q. The time before that for the last stop  
14 says 3:25.  
15 A. Yes.  
16 Q. Is that a.m.?  
17 A. A.m., yes.  
18 Q. The first delivery was made at  
19 10:19 p.m.?  
20 A. The first delivery, yes.  
21 Q. The second to last --  
22 A. That's not when I started though.  
23 Q. The first delivery was made at 10:19 --  
24 A. The first delivery.  
25 Q. -- p.m.?

[Page 73]

1 T. Jackson  
2 A. Yes.  
3 Q. Do you know how far Bloomfield,  
4 Connecticut is from the Brooklyn facility?  
5 A. If I had to guess, I would say two, two  
6 and a half hours.  
7 Q. Do you know if Fresh Diet was located in  
8 Siegel Street --  
9 A. At this time?  
10 Q. -- on May 24, 2010?  
11 MR. ANDREWS: Wait. Let him  
12 finish.  
13 A. I don't know.  
14 Q. It may have been in Connecticut at that  
15 time?  
16 MR. ANDREWS: Objection.  
17 A. I don't think so. I think we were in  
18 Brooklyn at this time, 2010. I think we were  
19 in Brooklyn at the time.  
20 Q. Getting back to when the last delivery  
21 was completed, you say that the last one is  
22 blank, correct?  
23 A. Yes.  
24 Q. The one before that was done at  
25 3:25 a.m.?

[19] (Pages 70 to 73)



[Page 74]

1 T. Jackson  
2 A. Yes.  
3 Q. That was in Norwalk, Connecticut?  
4 A. Norwalk, yes.  
5 Q. Do you know how far Norwalk, Connecticut  
6 was from the Brooklyn facility?  
7 A. Anywhere from an hour to an hour and a  
8 half.  
9 Q. Just moving on in Defendant's 51, I just  
10 want to get to the next set where you recognize  
11 that it's definitely your handwriting.  
12 A. This is my handwriting (indicating).  
13 Q. Now we're referring to FD003483?  
14 A. Yes.  
15 Q. Is that your handwriting on FD003484?  
16 A. Yes.  
17 Q. Does this indicate your manifest for  
18 May 23, 2010?  
19 A. Yes.  
20 Q. On the first row, do you see where it  
21 says "9:21"?  
22 A. Yes.  
23 Q. Does that mean that the first delivery  
24 you made --  
25 A. Was at 9:21.

[Page 75]

1 T. Jackson  
2 Q. P.m.?  
3 A. Yes.  
4 Q. That was in Rocky Hill, Connecticut?  
5 A. Yes.  
6 Q. Do you know how far Rocky Hill,  
7 Connecticut is from the Brooklyn facility?  
8 A. About two hours.  
9 Q. Looking at FD003484, does that last row  
10 indicate the last stop you would have made for  
11 the May 23, 2010 route?  
12 A. Yes.  
13 Q. What time does that say?  
14 A. 2:40.  
15 Q. Is that 2:40 a.m.?  
16 A. Yes.  
17 Q. If you could, just keep looking for the  
18 next set where you definitively recognize your  
19 handwriting.  
20 A. This one looks like my handwriting here,  
21 this one (indicating).  
22 Q. Now we're referring to --  
23 A. FD003487.  
24 Q. Is your handwriting also on FD003488?  
25 A. Yes.

[Page 76]

1 T. Jackson  
2 Q. Looking at FD003487, is that a route  
3 your received for May 14, 2010?  
4 A. Yes.  
5 Q. For eleven stops?  
6 A. Yes.  
7 Q. What time does it say the first delivery  
8 was made?  
9 A. At 10:28 p.m.  
10 Q. What time does it say the last delivery  
11 was made?  
12 A. No, this is not right.  
13 Q. Looking at 003487, is that a complete  
14 manifest for one night?  
15 A. Okay. Which one?  
16 Q. 3487.  
17 A. I don't think this is a complete -- I  
18 don't think so.  
19 Q. How many stops are indicated?  
20 A. It says eleven stops here. It says  
21 eleven.  
22 Q. How many customers are listed on that  
23 one sheet, being FD003487?  
24 MR. ANDREWS: Objection.  
25 A. One, two, three, four, five, six, even,

[Page 77]

1 T. Jackson  
2 eight, nine, ten, eleven on this one.  
3 Q. What time does it say that the drop-off  
4 was for the last customer listed on that page?  
5 MR. ANDREWS: Objection.  
6 A. On this page, 1:52 a.m.  
7 Q. You said that you also recognized your  
8 handwriting on the document FD003488?  
9 A. Yes.  
10 Q. Do you recognize your handwriting on  
11 FD003489?  
12 A. Yes.  
13 Q. This page (indicating).  
14 A. Oh, I'm sorry. On this one, yes.  
15 Q. That's your handwriting?  
16 A. Yes.  
17 Okay. So this is part of this one  
18 (indicating).  
19 Q. Is 003488 to 003489 a manifest you would  
20 have received for May 16, 2010?  
21 MR. ANDREWS: Objection.  
22 A. Yes.  
23 Q. Is that a complete manifest you would  
24 have received for that night?  
25 MR. ANDREWS: Objection.

[20] (Pages 74 to 77)



[Page 78]

1 T. Jackson  
2 A. Yes.  
3 Q. Now you're looking at FD003490?  
4 A. Yes.  
5 Q. Is the complete manifest for  
6 May 16, 2010 contained on FD003488 through  
7 003490?  
8 A. Yes.  
9 Q. What time does it indicate the first  
10 drop-off was made?  
11 A. 8:48 a.m. P.m. Sorry. P.m.  
12 Q. What time does it indicate that the last  
13 delivery was made?  
14 A. 2:25. Yeah, 2:25 a.m.  
15 Q. That last stop was in Darien,  
16 Connecticut?  
17 A. Yes. No. No. The last stop would have  
18 been New Canaan it looks like. It looks like  
19 New Canaan.  
20 Q. What time is it at New Canaan?  
21 A. 2:42.  
22 Q. A.m.?  
23 A. 2:42 a.m.  
24 Q. Is there a reason the New Canaan was the  
25 last stop as opposed to Darien, Connecticut on

[Page 79]

1 T. Jackson  
2 that night?  
3 MR. ANDREWS: Objection.  
4 A. If I'm not mistaken, I think New Canaan  
5 is before -- New Canaan is between -- if I'm  
6 not mistaken, New Canaan would be between --  
7 okay. I think maybe I did a mistake here.  
8 Maybe that was supposed to be a one  
9 (indicating). Maybe that was supposed to be a  
10 one.  
11 MR. ANDREWS: Read the page  
12 number.  
13 A. The page number is FD003489. I think I  
14 might have made a mistake and put a two, and it  
15 was supposed to be a one.  
16 Q. Meaning 1:42 a.m.?  
17 A. Yes.  
18 Q. Getting back to when the last stop would  
19 have been made for the May 16, 2010 route, what  
20 time would that have been?  
21 MR. ANDREWS: Objection.  
22 A. 2:25 a.m.  
23 Q. In Darien, Connecticut?  
24 A. Yes.  
25 This one looks like my handwriting

[Page 80]

1 T. Jackson  
2 (indicating).  
3 MR. ANDREWS: Make sure you read  
4 the page numbers when you identify  
5 documents.  
6 A. It's FD003491 and FD003492.  
7 Q. Looking at 3491, does that indicate what  
8 the first stop would have been for the  
9 May 17, 2010 route?  
10 A. Yes.  
11 Q. What time was that?  
12 A. 10:20.  
13 Q. P.m.?  
14 A. Uh-huh.  
15 Q. Does that indicate when the last --  
16 A. Yes.  
17 Q. -- delivery was made?  
18 What time was that?  
19 A. 4:09 a.m.  
20 Q. Is that in Darien, Connecticut?  
21 A. Yes.  
22 I think it might have been -- I think I  
23 might have did more stops than this because for  
24 some reason I put twenty-nine up there  
25 (indicating).

[Page 81]

1 T. Jackson  
2 MR. ANDREWS: Read the page  
3 number.  
4 A. FD003491. I think I might have done  
5 more stops than what it's saying on here, the  
6 twenty-three, because I got a twenty-nine there  
7 (indicating). So I think I might have did  
8 twenty-nine stops that day instead of  
9 twenty-three. I just don't know where the rest  
10 of the manifest is.  
11 Q. There's nothing indicating when the  
12 other stops would have been other than what's  
13 on the manifest, correct?  
14 MR. ANDREWS: Objection.  
15 A. There must be another part, so --  
16 Q. Let's go ahead and just --  
17 A. This one would be the same thing  
18 (indicating). This is FD003493. I think this  
19 might have been more stops also because I got a  
20 thirty-two in the corner.  
21 Q. Is that your handwriting on FD003493?  
22 A. Yes, that's my handwriting.  
23 Q. 3494?  
24 A. Yes.  
25 Q. And 3495?

[21] (Pages 78 to 81)

[Page 82]

1 T. Jackson  
2 A. Yes.  
3 These two are together (indicating).  
4 Q. Is that your handwriting on 3497?  
5 A. No, but this does look like my husband's  
6 handwriting.  
7 Q. Who is your husband?  
8 A. Delroy McNeil.  
9 Q. He performed --  
10 A. No. Sometimes he would go with me.  
11 Q. He would go with you?  
12 A. Yes.  
13 Q. He would fill out the manifest?  
14 MR. ANDREWS: Objection.  
15 A. Yes. It looks like he filled this one  
16 out for me.  
17 Q. Would he ever take any of the meals to  
18 the doors when he was with you?  
19 A. Yes, sometimes he did.  
20 Q. How often did he go with you?  
21 A. I can't really answer that.  
22 Q. Every week?  
23 Would he go with you once a night?  
24 MR. ANDREWS: Objection.  
25 A. No, more than that.

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1 T. Jackson  
2 Q. More than that?  
3 A. Uh-huh.  
4 Q. Three nights a week?  
5 MR. ANDREWS: Objection.  
6 A. I can't be specifically sure how many  
7 nights.  
8 Q. Would he be with you the entire time?  
9 MR. ANDREWS: Objection.  
10 A. Of the route?  
11 Q. Yes.  
12 A. The entire time that I'm on the route?  
13 Q. Yes.  
14 A. Yes.  
15 Q. Did he go to the facility with you?  
16 A. Yes.  
17 Q. Did Syed ever see him?  
18 A. Yes.  
19 Q. Did Syed ever tell you you can't have  
20 your husband --  
21 A. No.  
22 Q. -- performing deliveries with you?  
23 A. No.  
24 Q. Did anyone else ever go with you?  
25 A. I don't remember. I don't think so.

[Page 84]

1 T. Jackson  
2 Q. Did your daughter ever go?  
3 A. With me? No. No, I don't think she  
4 ever went with me.  
5 Q. You recognize that to, perhaps, be your  
6 husband's handwriting?  
7 A. Yes.  
8 Q. We're looking at 3497?  
9 A. Yes.  
10 Q. Do you recognize that on 3498?  
11 A. Yes.  
12 Q. Do you recognize the handwriting on  
13 3499?  
14 A. Yes, that also looks like my husband's  
15 writing, and on 3500.  
16 MR. ANDREWS: FD003500.  
17 A. This looks like his handwriting on  
18 FD003501.  
19 Do you want me to keep going?  
20 Q. Let's just skip a few here.  
21 MR. ANDREWS: You want to skip a  
22 whole bunch?  
23 MR. POLLACK: Yes.  
24 Q. Just getting back where you recognized  
25 your handwriting and the time entry on that

[Page 85]

1 T. Jackson  
2 manifest, that would indicate the first  
3 delivery made, correct?  
4 A. Yes.  
5 Q. The last entry would indicate the last  
6 delivery made?  
7 A. Yes.  
8 MR. ANDREWS: Objection.  
9 Q. The time of the last delivery made,  
10 correct?  
11 MR. ANDREWS: Objection.  
12 A. Yes, pretty much.  
13 Q. Do you recognize your handwriting on --  
14 A. On this one? Yes.  
15 Q. -- on 3723?  
16 A. Yes.  
17 Q. Is that your handwriting on 3729?  
18 A. Yes.  
19 Q. Do you recognize your handwriting on  
20 3752?  
21 A. Yes.  
22 Q. Do you recognize your handwriting on  
23 3753?  
24 A. Yes.  
25 Q. Do you know if 3752 to 3753 represents

[22] (Pages 82 to 85)

[Page 86]

1 T. Jackson  
 2 one route for November 28, 2010?  
 3 A. I don't know.  
 4 Q. Do you see that it says seventeen stops?  
 5 A. Yes.  
 6 Q. On 3752, correct, it says seventeen  
 7 stops?  
 8 A. Yes, this says seventeen stops  
 9 (indicating).  
 10 Q. On 3753, there's a handwritten notation  
 11 saying sixteen.  
 12 Do you see that?  
 13 A. Yes.  
 14 Q. Do you know what that would mean?  
 15 A. I don't remember.  
 16 Q. If you see --  
 17 A. Maybe that -- maybe it was -- I think it  
 18 was sixteen stops because this is crossed out  
 19 (indicating).  
 20 Q. You're referring to the ninth row on  
 21 3752?  
 22 A. Yeah.  
 23 I'm not sure if this is part of that or  
 24 not (indicating). This doesn't have a date on  
 25 it.

[Page 87]

1 T. Jackson  
 2 Q. Fair enough.  
 3 Starting on 3755, can you just flip  
 4 through the document and let me know when you  
 5 see your handwriting and a complete delivery  
 6 route for a given day?  
 7 MR. ANDREWS: Objection.  
 8 A. Could you repeat that?  
 9 Q. Starting on this page --  
 10 A. Right.  
 11 Q. -- which is 3755 --  
 12 A. Yes.  
 13 Q. -- I want you to go through it until you  
 14 see your handwriting and a complete route for a  
 15 given night.  
 16 MR. ANDREWS: Objection.  
 17 A. This looks -- this is my handwriting  
 18 but -- this is FD003757, but I got the number  
 19 twenty-one. There's a number twenty-one up  
 20 here, so I don't (indicating) -- I don't  
 21 remember if it was twenty-one stops or if it  
 22 was seventeen stops.  
 23 Q. Let's move on.  
 24 A. That's my handwriting (indicating).  
 25 Q. You're referring to 3769?

[Page 88]

1 T. Jackson  
 2 A. 3769, yes. Yes, this is my handwriting.  
 3 This is my handwriting, but it doesn't  
 4 look like a full route (indicating).  
 5 MR. ANDREWS: You have to speak  
 6 up and identify the page numbers.  
 7 A. FD003776 and FD003775 looks like my  
 8 handwriting.  
 9 Q. Do you know if 3775 and 3776 make up one  
 10 route?  
 11 A. No. No. Actually, this would be the  
 12 back of this one (indicating). Okay. This  
 13 would be the back, I think, of this one  
 14 (indicating).  
 15 Q. Do you believe that 3776 to 3777 is one  
 16 route?  
 17 MR. ANDREWS: Objection.  
 18 A. No, I don't think so. I don't think so.  
 19 They have the same stops here as the same stops  
 20 here (indicating).  
 21 Q. Did you give these to your attorney?  
 22 A. Yes, I did.  
 23 Q. Where do you have them?  
 24 A. The originals?  
 25 Q. Yes.

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1 T. Jackson  
 2 A. The originals, my attorney has.  
 3 Q. You gave them to your attorney you  
 4 said --  
 5 A. Yes.  
 6 Q. -- correct?  
 7 A. Uh-huh.  
 8 Q. Do you have a hard copy of them, or are  
 9 they on a computer?  
 10 A. No. I have the actual -- well, my  
 11 lawyer has the actual manifests.  
 12 Q. You gave them all to your lawyer?  
 13 A. Yes, all the ones that I had.  
 14 Q. Did you explain what they were?  
 15 A. Yeah. I told him they were my  
 16 manifests.  
 17 Q. Looking at 3777, do you see where it  
 18 says "January 9, 2011"?  
 19 A. Right.  
 20 Q. And 3775 shows January 10, 2011.  
 21 Do you see that?  
 22 A. Yes.  
 23 Q. These are two different manifests,  
 24 correct?  
 25 A. It looks like it, yes.

[23] (Pages 86 to 89)

[Page 90]

1 T. Jackson  
 2 Q. Do you know if 3776 is the other part of  
 3 one of those two manifests?  
 4 MR. ANDREWS: Objection.  
 5 A. I think this is a whole different  
 6 manifest because it has the same stops, see,  
 7 35 Overhill Road (indicating).  
 8 Q. Is on 377 --  
 9 A. Oh. Wait. Wait. Wait.  
 10 MR. ANDREWS: Make sure you read  
 11 what page number. Otherwise, we'll  
 12 never understand what page you're  
 13 referring to.  
 14 THE WITNESS: Okay.  
 15 A. FD003777.  
 16 Q. That's the beginning part of a route for  
 17 January 9 --  
 18 A. Right.  
 19 Q. -- 2011, correct?  
 20 A. Right.  
 21 Q. Do you know --  
 22 A. It looks like the beginning. Let me  
 23 change that. It looks like the beginning.  
 24 Q. It says fourteen stops, correct?  
 25 A. Yes.

[Page 91]

1 T. Jackson  
 2 Q. Are fourteen stops contained on that one  
 3 page?  
 4 A. One, two, three, four, five, six, seven,  
 5 eight, nine, ten. No. That says ten.  
 6 This is different because it has the  
 7 same stops here on FD003776 as they do on  
 8 FD003777 (indicating). See on --  
 9 Q. On 3776?  
 10 A. Yes, are on --  
 11 Q. 3777 --  
 12 A. Yes.  
 13 Q. -- the same addresses?  
 14 A. So I think that's two different  
 15 manifests.  
 16 Q. I'm not going to ask you to guess.  
 17 Again, just trying to go through when  
 18 you could see a completed route between one,  
 19 two, or three pages for the next night that  
 20 contains your handwriting or your husband's  
 21 handwriting.  
 22 A. FD003783 and FD003782 looks like it's a  
 23 complete manifest.  
 24 Q. Is that for the November 16, 2010 route?  
 25 A. Yes.

[Page 92]

1 T. Jackson  
 2 Q. When would the first delivery have been  
 3 made on that route?  
 4 A. Looks like 8:12.  
 5 Q. P.m.?  
 6 A. P.m., yes.  
 7 Q. When was the last delivery?  
 8 MR. ANDREWS: Objection.  
 9 A. Looks like 3:54 a.m.  
 10 MR. ANDREWS: We should take a  
 11 short break. It doesn't have to be this  
 12 second, but we've been going for over an  
 13 hour.  
 14 THE WITNESS: Okay.  
 15 Q. On 3782 to 3783, the deliveries are put  
 16 in a certain order; is that correct?  
 17 A. This is the order that they gave it to  
 18 me in, that Syed gave it to me in.  
 19 Q. Did you follow that order?  
 20 A. Not on this one.  
 21 Q. Did you tell Syed that you changed the  
 22 order in which you delivered the meals that  
 23 night?  
 24 MR. ANDREWS: Objection.  
 25 A. Any time he didn't put it in the correct

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1 T. Jackson  
 2 order, yes.  
 3 Q. What do you mean?  
 4 A. Meaning -- meaning I would usually start  
 5 from the furthest stop and work my way down to  
 6 the closest stop. So this looks like he got it  
 7 all mixed up. It's not -- it's not in the  
 8 order that it's normally done in.  
 9 Q. From furthest away to closest --  
 10 A. Right.  
 11 Q. -- to the Brooklyn facility?  
 12 A. Right.  
 13 Q. You decided the order in which you were  
 14 to deliver them?  
 15 MR. ANDREWS: Objection.  
 16 A. It's -- usually, it's in correct order  
 17 when I get my manifest from him. It's usually  
 18 the furthest city from the Brooklyn kitchen,  
 19 and I work my way back down to the Brooklyn  
 20 kitchen.  
 21 So it looks like the furthest one on  
 22 here was -- furthest one here looks like it  
 23 could have been the Glastonbury stop, I think  
 24 (indicating).  
 25 Q. You're looking on 3783?

[24] (Pages 90 to 93)

[Page 94]

1 T. Jackson  
2 A. Yeah, this is 3783.  
3 I don't know what happened here. Okay.  
4 It looks like -- okay.  
5 Q. I'll ask this.  
6 If you ever didn't deliver in the order  
7 that it was contained on the manifest, did you  
8 have to tell Syed?  
9 A. Yes.  
10 Q. What would you tell him?  
11 A. If it wasn't in the order that it's  
12 normally done in, I would let him know.  
13 Q. You would let him know?  
14 A. Yeah.  
15 Q. What would you let him know?  
16 A. I would tell him that it's not in its  
17 correct order.  
18 Q. What would he say?  
19 MR. ANDREWS: Objection.  
20 A. I don't know.  
21 Q. Did he tell you that you have to do it  
22 on the order that it's on the manifest?  
23 MR. ANDREWS: Objection.  
24 A. No, he didn't tell me that I had to do  
25 it on this order because he didn't really know

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1 T. Jackson  
2 Connecticut the way I did.  
3 Q. You were able to decide where to --  
4 A. Put it in the correct order.  
5 Q. You were able to make that decision?  
6 MR. ANDREWS: Objection.  
7 A. Yes.  
8 Q. Did that happen on more than one  
9 occasion?  
10 A. Depending on a manifest. I don't know  
11 how they -- the manifest wasn't always in its  
12 correct order. Sometimes it was, sometimes it  
13 wasn't.  
14 MR. POLLACK: Why don't we take  
15 a break?  
16 (Whereupon, a recess was taken  
17 at this time.)  
18 Q. Is that your handwriting on the document  
19 FD003854?  
20 A. Yes.  
21 Q. Is that your handwriting on the back of  
22 the page on 3855?  
23 A. Yes.  
24 Q. Does 3854 to 3855 represent one route?  
25 A. Yes.

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1 T. Jackson  
2 Q. Is that a route for April 12, 2010?  
3 A. Yes.  
4 Q. What time does it indicate that the  
5 first delivery was dropped off?  
6 A. The first delivery was at 8:06.  
7 Q. P.m.?  
8 A. P.m.  
9 Q. That was in North Brunswick, New Jersey?  
10 A. Yes.  
11 Q. What time does it indicate the last  
12 delivery was made?  
13 A. Staten Island at 1:14.  
14 Q. A.m.?  
15 A. A.m., yes.  
16 Q. That's the second to last row?  
17 A. Yes.  
18 Q. Again, does this indicate that you went  
19 out of order between the last two stops?  
20 A. Yes.  
21 Q. Did you make that decision on your own?  
22 MR. ANDREWS: Objection.  
23 A. I don't remember. I don't recall this  
24 one.  
25 Q. If you ever went out of the order on the

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1 T. Jackson  
2 manifest, were you disciplined by Syed Hussain?  
3 MR. ANDREWS: Objection.  
4 A. If I ever went out of order? If I ever  
5 went out of order, he would know.  
6 Q. He wouldn't know?  
7 MR. ANDREWS: He would know is  
8 what she said.  
9 Q. He would know?  
10 A. He would know, yeah.  
11 Q. He would know?  
12 A. He would know.  
13 Q. Were you ever disciplined if you went  
14 out of order?  
15 MR. ANDREWS: Objection.  
16 A. No. I don't recall that. No.  
17 Q. How would he know that you went out of  
18 the order?  
19 A. How would he know that I went out of  
20 order?  
21 Q. Yes.  
22 A. I'm trying to figure out what happened  
23 that day that I did that.  
24 MR. ANDREWS: Mr. Pollack has  
25 asked you a question. You don't need to

[25] (Pages 94 to 97)

[Page 98]

1 T. Jackson  
 2 look at this document to answer it.  
 3 A. Can you repeat that?  
 4 MR. POLLACK: Can you repeat it?  
 5 (Whereupon, the record was read  
 6 by the reporter.)  
 7 A. How would he know if I went out of the  
 8 order? If I had to go out of the order, then I  
 9 would -- I don't know that right now. I don't  
 10 know.  
 11 Q. Would you call him and tell him that  
 12 you're going out of the order on a manifest?  
 13 MR. ANDREWS: Objection.  
 14 A. Sometimes. It depends on whatever  
 15 problem was that night.  
 16 I mean, there was times where we had bad  
 17 weather, maybe -- you know, the situation  
 18 changes from day to day, you know. It depends  
 19 on what the weather is like, if he takes  
 20 something off the manifest, if he puts  
 21 something on the manifest. Depends on, you  
 22 know, the situation for that night, that  
 23 particular day.  
 24 Q. Were there times where you did not tell  
 25 him that you went out of order until after you

[Page 99]

1 T. Jackson  
 2 had completed the route?  
 3 MR. ANDREWS: Objection.  
 4 A. Were there times? I don't remember.  
 5 Probably so.  
 6 Q. Did you take any breaks during the time  
 7 you performed deliveries?  
 8 A. Did I take any breaks? I might have  
 9 stopped and got coffee or something to eat.  
 10 Q. Would you take a break for any other  
 11 reason?  
 12 A. To go to the bathroom --  
 13 Q. To get gas?  
 14 A. -- get coffee.  
 15 Yeah, gas, get something to eat,  
 16 something to snack on.  
 17 Q. Did you ever go into a restaurant to  
 18 eat?  
 19 A. To sit down and eat?  
 20 Q. Yes.  
 21 A. No.  
 22 Q. Would you ever call Syed to tell him  
 23 that you were going to get something to eat?  
 24 A. No.  
 25 Q. Would you call him and tell him you were

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1 T. Jackson  
 2 going to get gas?  
 3 A. No.  
 4 Q. You wouldn't call him if you were taking  
 5 a break during the time you were performing  
 6 deliveries?  
 7 MR. ANDREWS: Objection.  
 8 A. If I was going for something to eat or  
 9 going for gas or going to the bathroom, no.  
 10 Q. Did you ever seek reimbursement for any  
 11 expenses you incurred during the time you were  
 12 performing deliveries?  
 13 A. The only reimbursement that we got was  
 14 our tolls.  
 15 Q. Did you have any other source of income  
 16 between 2007 and 2011 besides the payments you  
 17 received for the work you performed as a driver  
 18 for The Fresh Diet?  
 19 A. When I worked at PCF, which was at the  
 20 beginning of me starting with Fresh Diet.  
 21 Q. Any other times?  
 22 A. Not that I can recall.  
 23 Q. Were taxes ever withheld from your  
 24 payments from Late Night?  
 25 A. Was taxes ever taken out of my check?

[Page 101]

1 T. Jackson  
 2 Q. Yes.  
 3 A. No, they were never taken out of my  
 4 check. I got a 1099.  
 5 Q. You got a 1099?  
 6 A. Yes.  
 7 (Whereupon, 2010 1099 form was  
 8 marked as Defendant's Exhibit 52, for  
 9 identification, as of this date.)  
 10 (Whereupon, 2010 1099 form was  
 11 marked as Defendant's Exhibit 53, for  
 12 identification, as of this date.)  
 13 (Whereupon, 2011 1099 form was  
 14 marked as Defendant's Exhibit 54, for  
 15 identification, as of this date.)  
 16 Q. I'm now showing you what's been marked  
 17 for identification as Defendant's Exhibit 52  
 18 (handing).  
 19 Is that a copy of a 1099 you would have  
 20 received?  
 21 A. The top one is mine (indicating).  
 22 Q. The top one?  
 23 A. Yes.  
 24 Q. Does that reflect the compensation you  
 25 received from Late Night for the year 2010?

[26] (Pages 98 to 101)



[Page 102]

1 T. Jackson  
 2 MR. ANDREWS: Objection.  
 3 A. The tolls is in here. The tolls that we  
 4 were reimbursed from is in this figure  
 5 (indicating).  
 6 Q. Do you see the sum, \$64,300?  
 7 A. Yes. Tolls were included.  
 8 Q. Is it your testimony that you received  
 9 less than that for the deliveries you  
 10 performed?  
 11 A. Yes.  
 12 Q. Do you know approximately how much --  
 13 A. No.  
 14 Q. -- the tolls were?  
 15 A. No.  
 16 MR. ANDREWS: Let the question  
 17 be asked first.  
 18 Q. Looking at Defendant's 53, do you  
 19 recognize that document (handing)?  
 20 A. It's the same one as 52.  
 21 Q. The top of 52?  
 22 A. Yes.  
 23 Q. Looking at Defendant's 54, do you  
 24 recognize that document (handing)?  
 25 A. Yes.

[Page 103]

1 T. Jackson  
 2 Q. What is that document?  
 3 A. This is my 1099.  
 4 Q. For what year?  
 5 A. 2011.  
 6 Q. Does that reflect the compensation --  
 7 A. No. This also has the tolls in it.  
 8 Q. The \$28,890 has tolls included?  
 9 A. Yes.  
 10 Q. How do you know that?  
 11 A. Whenever we had to give them receipts  
 12 for the tolls, it was never a separate check.  
 13 They always put it in the one check that we  
 14 received weekly. Whatever we were reimbursed  
 15 for never came in two checks. It was one  
 16 check. It was never a separate check that says  
 17 this is for your tolls and this is what we made  
 18 for the week.  
 19 Q. How did you pay the tolls?  
 20 A. I paid the tolls out of my pocket.  
 21 Q. Did you have an E-ZPass?  
 22 A. Not all the time.  
 23 Q. Whatever you spent out of your pocket  
 24 for the tolls, you were paid back for?  
 25 A. Yes.

[Page 104]

1 T. Jackson  
 2 MR. ANDREWS: Objection.  
 3 Q. Did you file tax returns in 2007?  
 4 A. Yes.  
 5 Q. 2008?  
 6 A. Yes.  
 7 Q. 2009?  
 8 A. Yes.  
 9 Q. 2010?  
 10 A. Yes.  
 11 Q. 2011?  
 12 A. Yes.  
 13 Q. Do you have copies of those tax returns?  
 14 A. I think I might have gave my lawyer  
 15 those. I gave him what I had.  
 16 Q. To the extent you haven't given them to  
 17 your lawyer and you still have them in your  
 18 possession, I'm making a request for any tax  
 19 returns filed between 2007 and 2011.  
 20 A. If I have them?  
 21 Q. Yes.  
 22 A. You want to see them?  
 23 Q. Yes.  
 24 MR. ANDREWS: That's for Yale  
 25 and I to work out. We'll talk about

[Page 105]

1 T. Jackson  
 2 that later.  
 3 THE WITNESS: Okay.  
 4 Q. Do you know if you claimed any  
 5 compensation you received from Late Night on  
 6 those tax returns?  
 7 MR. ANDREWS: Objection.  
 8 A. Did I claim any compensation? You have  
 9 to explain that more. I don't understand what  
 10 you're trying to say.  
 11 Q. You filed tax returns you said --  
 12 A. Right.  
 13 Q. -- for each year that you performed  
 14 deliveries as a driver --  
 15 A. Right.  
 16 Q. -- for Late Night, correct?  
 17 A. Right.  
 18 MR. ANDREWS: Objection.  
 19 Q. Who prepared the tax returns?  
 20 A. The tax person that I went to that year.  
 21 Q. Was it the same person each year?  
 22 A. Not always, no.  
 23 Q. Was it an individual or a firm in 2007?  
 24 A. I don't know. Might have been a firm.  
 25 Q. Like an H&R Block?

[27] (Pages 102 to 105)

[Page 106]

1 T. Jackson  
 2 MR. ANDREWS: Objection.  
 3 A. I don't know who it was, but it might  
 4 have been a firm.  
 5 Q. Do you know if you ever gave the 1099  
 6 forms to the person who prepared your tax  
 7 returns?  
 8 A. I gave them a copy of what I got from  
 9 Fresh Diet.  
 10 Q. Do you know if any expenses were  
 11 deducted on the tax returns?  
 12 A. If any expenses were deducted? Yes, I  
 13 think so.  
 14 Q. Do you know what expenses?  
 15 A. I think it was my mileage.  
 16 Q. Anything else?  
 17 A. My daughter.  
 18 Q. I'm just talking relating to expenses  
 19 incurred as a driver.  
 20 A. I don't know what else. I don't  
 21 remember. Mainly, it was my mileage.  
 22 Q. Do you remember if you filed them  
 23 quarterly or at the end of the year?  
 24 A. I filed at the end of the year.  
 25 Q. Did you ever receive any type of

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1 T. Jackson  
 2 benefits from The Fresh Diet?  
 3 A. No. I -- no.  
 4 Q. Do you know the name Judah Schloss?  
 5 A. Judah?  
 6 Q. Or Judah.  
 7 A. Judah, yeah.  
 8 Q. Who do you know him to be?  
 9 A. Judah's the boss.  
 10 Q. The boss of what?  
 11 A. Fresh Diet.  
 12 Q. Have you ever personally interacted with  
 13 him?  
 14 A. Not really, just to say hi maybe.  
 15 Q. Do you know the name Zaimi Duchman?  
 16 A. Yes.  
 17 Q. Who do you know Zaimi Duchman to be?  
 18 A. One of the bosses from Fresh Diet.  
 19 Q. Have you ever personally interacted with  
 20 Mr. Duchman?  
 21 A. Just to say hi.  
 22 Q. Did you maintain a cell phone at the  
 23 time you were performing deliveries as a driver  
 24 for The Fresh Diet?  
 25 A. Yes.

[Page 108]

1 T. Jackson  
 2 Q. Yes?  
 3 A. Yes.  
 4 Q. Did you ever communicate by text message  
 5 with Syed on that cell phone?  
 6 A. Yes.  
 7 Q. What would you text Syed about?  
 8 MR. ANDREWS: Objection.  
 9 A. Different things.  
 10 Q. Would you ever text if you completed  
 11 your delivery?  
 12 A. Sometimes.  
 13 Q. Do you still have the cell phone that  
 14 you used to text with Syed?  
 15 A. At that time? No, it was a different  
 16 cell phone.  
 17 Q. You don't have it anymore?  
 18 A. No, I don't have that cell phone.  
 19 Q. When did you last have that cell phone?  
 20 A. I don't know.  
 21 Q. Do you know if it was before July 2012?  
 22 A. I don't know.  
 23 Q. Were you ever advised by your attorneys  
 24 to preserve all relevant information in your  
 25 possession concerning your claims in this

[Page 109]

1 T. Jackson  
 2 action?  
 3 A. To preserve? Can you explain that  
 4 further?  
 5 Q. Did you ever receive any instruction  
 6 from your attorney to preserve or not destroy  
 7 information --  
 8 A. To save whatever --  
 9 MR. ANDREWS: I object to the  
 10 form of that question to the extent it  
 11 calls for disclosure of attorney client  
 12 privileged information. Perhaps, if the  
 13 question's asked differently, it  
 14 wouldn't request disclosure of that  
 15 communication.  
 16 Q. Have you preserved all information  
 17 relevant to the claims in this action?  
 18 A. Have I saved --  
 19 Q. Saved, yes.  
 20 A. -- anything?  
 21 Q. Saved everything.  
 22 A. I don't recall saving anything, no.  
 23 MR. POLLACK: Pending the  
 24 production of the additional documents  
 25 requested at the deposition, I have no

[28] (Pages 106 to 109)

[Page 110]

1 T. Jackson  
 2 further questions.  
 3 MR. ANDREWS: I have just a  
 4 couple minutes of follow-up questions.  
 5 EXAMINATION BY  
 6 MR. ANDREWS:  
 7 Q. Ms. Jackson, do you recall, in addition  
 8 to everything else you've testified to today,  
 9 there being occasional driver meetings?  
 10 A. Yes.  
 11 Q. Who was in charge of those driver  
 12 meetings?  
 13 A. Syed.  
 14 Q. How frequently were those driver  
 15 meetings held?  
 16 A. When we got to Brooklyn, quite  
 17 frequently.  
 18 Q. Where were the driver meetings held?  
 19 A. Siegel Street.  
 20 Q. Can you describe where in Siegel Street  
 21 they were held?  
 22 A. Upstairs in his office.  
 23 Q. In Syed's office?  
 24 A. Yes.  
 25 Q. Were all the drivers present at these

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1 T. Jackson  
 2 for you when he was with you?  
 3 A. No. He mainly went along as company, to  
 4 keep me company.  
 5 MR. ANDREWS: I have no further  
 6 questions.  
 7 CONTINUED EXAMINATION BY  
 8 MR. POLLACK:  
 9 Q. You testified that that was your  
 10 husband's handwriting on the manifest, correct?  
 11 A. Yes.  
 12 Q. Did he also actually, physically, ever  
 13 bring a bag to a customer's door?  
 14 A. Sometimes, yes.  
 15 MR. POLLACK: Thank you. I have  
 16 no further questions.  
 17 (Time Noted: 4:42 p.m.)  
 18  
 19 \_\_\_\_\_  
 20 TERESA JACKSON  
 21  
 22 Subscribed and sworn to before me  
 23 this \_\_\_\_ day of \_\_\_\_\_, 2013.  
 24 \_\_\_\_\_  
 25 Notary Public

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1 T. Jackson  
 2 meetings?  
 3 A. Pretty much, yes.  
 4 Q. Do you recall what was typically  
 5 discussed at these meetings?  
 6 A. Different things.  
 7 Q. Do you recall when these meetings were  
 8 held during the day?  
 9 A. Usually, before we start our route,  
 10 before we went out.  
 11 Q. Earlier, Mr. Pollack asked you if you  
 12 recognized a certain handwriting on the  
 13 manifest, and you testified that you recognized  
 14 your husband's handwriting --  
 15 A. Yes.  
 16 Q. -- on some of the pages.  
 17 Do you recall that?  
 18 A. Yes.  
 19 Q. You also testified that, at times, your  
 20 husband road along with you when you --  
 21 A. Yes.  
 22 Q. -- delivered food.  
 23 Do you recall that testimony?  
 24 A. Yes.  
 25 Q. Did your husband actually do your work

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## 1 CERTIFICATE

2  
3 I, MELISSA KAHANE, hereby certify that  
4 the Examination Before Trial of TERESA JACKSON  
5 was held before me on the 2nd day of October,  
6 2013; that said witness was duly sworn before  
7 the commencement of her testimony; that the  
8 testimony was taken stenographically by myself  
9 and then transcribed by myself; that the party  
10 was represented by counsel as appears herein;

11 That the within transcript is a true  
12 record of the Examination Before Trial of said  
13 witness;

14 That I am not connected by blood or  
15 marriage with any of the parties; that I am not  
16 interested directly or indirectly in the  
17 outcome of this matter; that I am not in the  
18 employ of any of the counsel.

19 IN WITNESS WHEREOF, I have hereunto set  
20 my hand this 2nd day of October, 2013.

21  
22 \_\_\_\_\_  
23 MELISSA KAHANE  
24  
25

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1 ERRATA SHEET  
2 PAGE/LINE CORRECTION

3	_____	_____
4	_____	_____
5	_____	_____
6	_____	_____
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